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SESSION 1937

HOUSE OF COMMONS

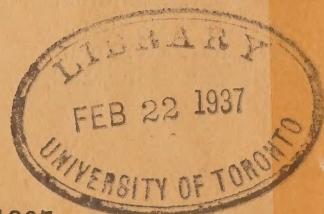
SPECIAL COMMITTEE

ON THE

CRIMINAL CODE  
(Death Penalty)

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 1



TUESDAY, FEBRUARY 9, 1937

TUESDAY, FEBRUARY 16, 1937

WITNESS:

C. P. Plaxton, Department of Justice, Ottawa.

J. O. PATENAUME, I.S.O.  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
OTTAWA  
1937

MEMBERS OF THE COMMITTEE

Mr. GEO. W. MCPHEE, K.C., *Chairman*

Mr. Barber,  
Mr. Bertrand (*Laurier*),  
Mr. Blair,  
Mr. Clarke (*Rosedale*),  
Mr. Girouard,  
Mr. Hall,  
Mr. Hamilton,  
Mr. Howden,  
Mr. Hyndman,  
Miss Maephail,

Mr. McCulloch,  
Mr. McIntosh,  
Mr. McPhee,  
Mr. O'Neill,  
Mr. Plaxton,  
Mr. Raymond,  
Mr. Sinclair,  
Mr. Taylor (*Nanaimo*),  
Mr. Veniot.

J. P. DOYLE,  
*Clerk of the Committee.*

COPY OF ORDER OF REFERENCE

*Criminal Code (Death Penalty) Bill:*

HOUSE OF COMMONS,

THURSDAY, January 28, 1937.

*Resolved*,—That the Bill No. 6, An Act to amend the Criminal Code (Death Penalty), be not now read a second time but that in the opinion of the House the subject-matter thereof should be referred to a special committee to be given at a later date, with instructions to send for persons, papers and records, and to report from time to time to this House.

Attest.

ARTHUR BEAUCHESNE,  
*Clerk of the House.*

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TUESDAY, February 2, 1937.

*Ordered*,—That pursuant to the motion passed by the House on January 28th, the Special Committee thereby appointed to study the subject-matter of Bill No. 6, intituled: “An Act to amend the Criminal Code (Death Penalty),” be composed of the following members, namely, Messrs. Barber, Bertrand (*Laurier*), Blair, Clarke (*Rosedale*), Girouard, Hall, Hamilton, Howden, Hyndman, Macphail (*Miss*), McCulloch, McIntosh, McPhee, O’Neill, Plaxton, Raymond, Sinclair, Taylor (*Nanaimo*), and Veniot: and that Standing Order 65 be suspended in relation thereto.

Attest.

ARTHUR BEAUCHESNE,  
*Clerk of the House.*

---

TUESDAY, February 9, 1937.

*Ordered*,—That the said Committee be granted leave to print from day to day 500 copies in English and 200 copies in French of the proceedings and evidence taken before the Committee, and that Standing Order 64 be suspended in relation thereto.

*Ordered*,—That nine members shall constitute a quorum.

Attest.

ARTHUR BEAUCHESNE,  
*Clerk of the House.*

SPECIAL COMMITTEE  
REPORTS TO THE HOUSE

February, 9th, 1937.

The Special Committee appointed to consider the subject-matter of Bill No. 6, an Act to amend the Criminal Code (Death Penalty), begs leave to present the following as a

FIRST REPORT

Your Committee recommends,

- (1) That it be granted leave to print from day to day 500 copies in English and 200 copies in French of the proceedings and evidence taken before the Committee, and that Standing Order 64 be suspended in relation thereto.
- (2) That nine members shall constitute a quorum.

All of which is respectfully submitted.

G. W. MCPHEE,  
*Chairman.*

(For concurrence see Votes and Proceedings, February 9, 1937.)

## MINUTES OF PROCEEDINGS

TUESDAY, February 9, 1937.

The Special Committee appointed to consider the subject matter of Bill No. 6, an Act to amend the Criminal Code (Death Penalty), met this day at 11 o'clock a.m.

The following members were present: Messrs. Barber, Bertrand (*Laurier*), Blair, Clarke (*Rosedale*), Howden, Macphail (Miss), McIntosh, McPhee, O'Neill, Taylor (*Nanaimo*), and Veniot.—11.

Nominations for Chairman having been requested, on motion of Mr. Bertrand (*Laurier*), seconded by Mr. McIntosh, Mr. McPhee was unanimously elected Chairman.

Mr. McPhee took the Chair.

The Clerk read the Order of Reference.

On motion of Mr. Howden, seconded by Mr. McIntosh, it was resolved to recommend to the House that nine members should constitute a quorum of the Committee.

The Chairman requested Mr. Blair, as sponsor of the Bill, to make suggestions as to the line of inquiry to be pursued.

Mr. Blair suggested getting reports from the various provinces of Canada, the states of the United States and countries of Europe and South America. He stated that he had a considerable number of letters on the subject and most of the writers of them had advised that copies had been sent to the Minister of Justice.

Mr. Taylor (*Nanaimo*), requested that copies of correspondence on this subject in the office of the Minister of Justice be furnished to the Committee.

Mr. Howden asked if there were any authorities on this subject who could be summoned. The name of Mr. C. P. Plaxton of the Justice Department was suggested as Mr. Plaxton had made a trip to the United States last year to investigate this.

On motion of Miss Macphail, seconded by Mr. Barber, it was resolved that Mr. Plaxton be called to give evidence at the next meeting.

Miss Macphail suggested that Warden E. E. Lawes of Sing Sing penitentiary be invited to give evidence.

On motion of Mr. Taylor (*Nanaimo*), seconded by Mr. Bertrand (*Laurier*), it was resolved that the Committee ask for leave to print from day to day 500 copies in English and 200 copies in French of the proceedings and evidence taken before the Committee, and that Standing Order 64 be suspended in relation thereto.

Mr. McIntosh suggested that a sub-committee on agenda be appointed. After discussion it was decided to leave this in abeyance.

Mr. Blair addressed the Committee on the subject of the death penalty.

On motion of Mr. Howden, seconded by Miss Macphail, the Committee adjourned to meet again at the call of the Chair.

*SPECIAL COMMITTEE*

*Arizona:* This method of inflicting capital punishment has been in operation since November, 1933.

*Colorado:* The method of inflicting capital punishment in Colorado was changed from hanging to gas by the legislature in 1933. This became operative at this institution in 1934.

*Wyoming:* The law making lethal gas the method of execution was passed in the 1935 state legislature. The chamber has not as yet been erected.

*North Carolina:* The law substituting a lethal gas for the electric chair as a method of inflicting capital punishment came into force on July 1, 1935; but there was a delay of several months before the completion of the gas chamber.

2. Is a central or other permanent place or places of execution maintained, or is the equipment portable? What is its character?

Ans. *Nevada:* A lethal chamber that cost, exclusive of inmate labour, about \$300 is used. The chamber is built of stone quarried here at the institution and contains two cells, the chamber itself and room for the death watch. The cells are equipped with the necessary toilet accessories, such as commode and wash basin. There is also a shower bath. The chamber is a small well ceiled room of a cubical content of 300 feet.

*Arizona:* The chamber is of a concrete construction, size about 6' x 6' x 8' high and is located at one of the cell blocks adjoining the condemned row.

*Colorado:* The central place of execution is maintained at this institution and is permanently located here.

*Wyoming:* This equipment is not portable and will be permanently located at the State Penitentiary at Rawlins.

*North Carolina:* The state penitentiary at Raleigh, N.C., is a permanent place of all executions in this state. The equipment consists of a steel room or cage, which was placed within the old electric chamber.

3. Is the system administered by the government or by some independent authority such as the sheriff?

Ans. *Nevada:* The state executes all capital sentences; no sheriff or any other officer assists in capital punishment other than guards regularly employed at the prison.

*Arizona:* All persons convicted of a felony in the state of Arizona are sentenced to the state prison here at Florence, to serve their sentence, and those under the death penalty are sentenced here also for the execution.

*Colorado:* This system is administered by the warden and guards of this institution.

*Wyoming:* This system will be administered by the warden and guards of this institution.

*North Carolina:* The system is administered under the authority of the state government by the warden of the state prison.

4. What was the cost of installation and what is the cost of operation including salaries and overhead?

*Ans. Nevada:* The cost of installation is, of a two gallon crock, a homemade chair, an electric blower to clear the chamber, in all not quite \$200. This equipment is permanent, and requires no upkeep. No salaries are involved nor special fees.

*Arizona:* The cost of installation was very small, due to the fact that it was constructed in the same room, originally used for hanging, the total cost of construction and installations did not exceed \$250.

*Colorado:* The cost of installation was \$2,500. The cost of an execution is 90 cents for the gas and \$50 which is divided up among the guards belonging to this institution who participate.

*Wyoming:* The cost will be in the neighbourhood of \$1,000 for installation. By making the warden the executioner and as we have our prison doctors no extra salaries will be necessary.

*North Carolina:* The cost of installation was approximately \$2,500, the larger part of which was for the construction of the steel room or cage in which the lethal gas is administered. There are no additional salaries or overhead, as the executioner is one of the regular guards who is paid a small amount for the executions, in addition to his monthly salary.

5. Does the act causing death have to be performed by some highly qualified person with some technical knowledge or can the execution be carried out by a man of the type who ordinarily served as hangman?

*Ans. Nevada:* No. No particular "hangman" is used. As before stated the entire procedure is simple, and consists of placing a given quantity of sulphuric acid in the mentioned crock which is set beneath the "chair." To this acid is added some water, and suspended above this mixture is a net, containing cyanide "eggs" (commercially procurable and the same as used by disinfecting companies). When all is ready a string connected with the net, which passes through a copper tube to the outside of the chamber is released, and that is all there is to it, except to clear the chamber, after the condemned is pronounced dead.

*Arizona:* It is not necessary to have a highly qualified person for such a task as the ordinary person who has been connected in some way with executions can very easily qualify in such a capacity.

*Colorado:* The act causing death does not have to be performed by some highly qualified person with technical knowledge, but is performed by our guards through the equipment we have for this purpose.

*Wyoming:* No technical knowledge is necessary for administering the lethal gas.

*North Carolina:* The act causing death does not have to be performed by some highly qualified person with technical knowledge. After the sulphuric acid and sodium cyanide are placed in their respective containers, the chemicals coming properly prepared, there is nothing left for the executioner to do except to press the electric switch, and once the pellets fall into the liquid there can be no mistake or bungling, and death is a certainty for the victim.

6. Is it practicable to administer the lethal gas as an ordinary anaesthetic, or is resort always had to the use of a lethal chamber? In either

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case has difficulty been experienced in obtaining suitable persons to undertake the administration of the gas?

Ans. *Nevada*: No. Resort always to the chamber. As before mentioned no special talent is required. No chance for mistake or messy results.

*Arizona*: To date we have had four executions, which have been very satisfactory with the following method:

The prisoner is securely strapped into the chair, both arms and legs, and blindfolded, about 10 minutes before the execution 2 quarts of warm water and 1 quart of sulphuric acid is mixed. Fifteen hydrocyanide eggs are suspended in a cloth bag from a string which runs through a small hole in the side of the chamber. When everything is in readiness, the string is cut on the outside allowing the cyanide eggs to drop into the solution of water and sulphuric acid. Immediately upon cutting the string, the hole through which the string runs is filled with putty, to prevent the gas from escaping.

It is usually from 7 to 9 minutes before the doctor officially pronounces the prisoner dead.

We have always allowed about 30 to 40 minutes in clearing the room of gas before entering the chamber.

*Colorado*: The administration of lethal gas is always confined to the lethal gas chamber. We do not have any difficulty in obtaining suitable persons to undertake the administration of the gas.

*Wyoming*: This chamber will be used only for legal executions.

*North Carolina*: Not advised of any other means in the use of lethal gas except within the gas chamber proper.

*By Mr. Howden*:

Q. If it takes 30 or 40 minutes to clear the chamber of gas how is a doctor able to pronounce a man dead in 7 or 9 minutes; how does he get to him?—A. In Nevada they use an electro-cardiograph.

Q. The long range X-ray?—A. Yes.

Q. Long range plate?—A. Yes. In Colorado by observation through plate-glass windows.

7. What has been the experience in your state as to the degree of humanness of this method of execution including the possibility of mistake or accident?

Ans. *Nevada*: Experience proves beyond doubt that this method is the most humane, the quickest, the cheapest.

*Arizona*: Although we have had only four executions to date with this method, the simplicity of it seems quite impossible for a mistake or an accident. As the prison does not have an electro-cardiograph are unable to give you a detailed report of executions here by lethal gas. Dr. H. B. Stewart, our prison physician, however, is of the opinion that the victim ceases to breathe and becomes unconscious instantaneously, and that there is no pain whatever.

*Colorado*: From our experience we consider this the most humane method of execution yet devised. Of course, every precaution is taken to guard against possibility of mistake or accident.

[Mr. C. F. Plaxton.]

*Wyoming:* This method is considered more humane by far than any other method ever devised, as there is no chance for accident.

*North Carolina:* There is some difference of opinion as to the humanness of this method of execution, but as to the possibility of mistake once the pellets and acid come into contact death is sure to follow. From observation I would state that the subject was unconscious within the minute, and that all pulsation absolutely ceases within eight minutes. Of course there is some variation in the time according to the physical stamina of the victim. I do not believe that the victim suffers any pain, the body after death is completely relaxed. This method does not require the shaving of the subject's head nor is there the resulting rigidity of the body or any burns on the flesh, which accompany electrocution.

This appears to me to be a thoroughly humane manner in which to administer the death penalty.

8. What is the relative value of this method of execution as a deterrent to crime?

Ans. *Nevada:* Just as there is nothing to prove hanging as a deterrent so there is nothing to prove "gas" a deterrent.

*Arizona:* I believe this question is entirely up to one's own personal opinion. It seems that every one has a different view on it. We have had a number of persons who have witnessed executions here, both by hanging and with gas, and they are equally divided as to their opinion on this subject.

*Colorado:* No specific answer.

*Wyoming:* It is considered that this method will have no more effect as a deterrent on crime than any other method of capital punishment.

*North Carolina:* It is impossible for me to answer this intelligently. From the number of executions we have had by electricity, and the number we have waiting execution by gas, it would appear that neither of these methods is of great value as a deterrent to crime.

That completes the answers from the states of the American Union.

Q. I take it from the statement read that it is a state matter in the United States?—A. Yes.

Q. The matter of executions with respect to capital punishment is not a federal matter at all?—A. I am not certain whether they do not carry out executions in the federal penitentiaries where a person has been convicted of a federal crime such as kidnapping or robbing mails.

Q. You say they do not?—A. I am not certain they do not in regard to kidnapping in an interstate way, which is a federal crime.

Q. What is our law here? Is it a provincial matter or a federal matter?—A. Oh, a provincial matter.

Q. We have no jurisdiction to make any change?—A. We can change the method; but the responsibility for carrying out the execution is that of the sheriff and the provincial authorities.

Q. I notice in your account that apparently all executions are carried out in one institution in the state.—A. That is so in those five different states.

*By Mr. Barber:*

Q. There has been some suggestion by the provinces that these executions should take place in the penitentiary rather than in the county towns. Would it be possible under our law to have a man who is committed for capital punish-

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ment sent to a penitentiary and the execution take place at that penitentiary?

—A. Not under the law as it stands now.

Mr. HOWDEN: Our county jails are pretty well isolated now, are they not? I do not know the situation in the east.

Mr. BLAIR: They are in the towns.

Mr. HOWDEN : The jail is right in the town, and the execution takes place in the jail yard?

Mr. BLAIR: Yes.

The CHAIRMAN: Are there any further questions on this phase of the matter?

*By Mr. Blair:*

Q. Did you have any letters recommending that we change to electric chair or to the lethal chamber?—A. Our department has never received any that I know of.

*By Mr. Howden:*

Q. How do they prepare the prisoner; do they strap him to the chair or what preparation is made to keep him there while he is getting the gas?—  
A. He is strapped to a chair first. As I understand it they prepare the solution of sulphuric acid and water about 90 per cent strong, which reaches its highest point of efficiency in about ten minutes. Then the prisoner, who has been brought in, is put in the chair. He is stripped except for a pair of B.V.D.s or something of that sort, and he is strapped in the chair. This solution is prepared in an earthen jar, very much like a jar that a gardener uses. This solution is put under the chair. Then a bag containing sodium cyanide eggs is suspended above. The guard then retires and the door is closed. Once the door is closed the place is hermetically sealed, and word is given to work the crank outside which drops the sodium cyanide eggs into the solution, and within 45 seconds the emanation of gas has reached the victim's face and he becomes unconscious.

Q. Do they prepare him with a cap, and all that sort of thing, as they do in hanging?—A. No.

*By Mr. Blair:*

Q. Do they use cyanide in the prisons?—A. Yes.

Q. Have you letters from the different provinces recommending that the federal government do anything?—A. Yes.

Q. They wrote me saying that they wrote you at the same time.—A. A letter was written to the Attorney General of each province.

Q. What returns did you get?—A. I shall read these answers:

*Ontario:* No specific answer, but the Attorney General of Ontario by letter of January 2, 1936, in transmitting to the Minister of Justice a resolution passed at the last annual meeting of the Sheriffs' Association of Ontario urging the substitution of a more humane method of inflicting the death penalty and the establishment of a central place in the province for this purpose said:

Though I hate the gruesome business as heartily as you do or more so, I do not know whether Canada is yet ready to abolish the death penalty. I fancy there would be little difficulty however in inducing our people to approve some genuinely better method of ending the lives of condemned persons. Failing this, however, there seems little reason why we should not alleviate some of the grosser objections to the present method.

[Mr. C. P. Plaxton.]

In saying this the Attorney General of Ontario was probably expressing his own personal view.

*Quebec:* Premier Taschereau said:

I have no opinion on this matter and leave it entirely to the best judgment of the Minister of Justice.

*Nova Scotia:* Attorney General MacQuarrie:

It would be difficult to obtain a definite view from our government upon the subject without full information, and a copy of the bill. If it could be shown that the administration of lethal gas is a more humane way of carrying into execution capital punishment, and it is intended to establish central places for the administration of lethal gas, such, as for instance, one central place for the Maritime provinces, then I would think that our government would view the proposal with favour, but at the moment this is merely my personal opinion.

*Prince Edward Island:* Attorney General Campbell:

I may say that the government of Prince Edward Island approves the proposed amendment of the Criminal Code by substituting for hanging the administration of lethal gas as a means of carrying into effect capital punishment.

*Manitoba:* Attorney General Major:

The views of the government of Manitoba are that if the sentence of death is to be imposed in capital cases that the method to be employed in carrying the sentence into effect should be the most humane possible.

As to whether or not the administration of lethal gas is more humane than hanging we can express no opinion.

It is noted that the Honourable the Minister of Justice has caused enquiries to be made in the United States as to the experience of the several states which have adopted the use of lethal gas. If as a result of such enquiries the Minister concludes that lethal gas is more humane than our present system and parliament passes the necessary amendment to the Criminal Code we shall, of course, put the same into effect, but we shall have to rely on the parliament of Canada determining the method.

*British Columbia:* Attorney General Sloan:

Please be advised that this is a subject upon which I am not qualified to express an opinion. The method of executing criminals is one upon which I presume medical men are competent to advise and, I am sure, if a more humane and efficient method of execution could be devised than hanging, it would meet the general approval.

*Saskatchewan:* Deputy Attorney General Blackwood:

I regret to inform you that owing to lack of information and data on the subject this government is not in a position to offer its views on the matter. However, I note that you are securing full information and data as to the experience of the several states of the American Union which have adopted this method of inflicting capital punishment and if upon receipt of such information and data you would care to communicate the same to me I shall then endeavour to furnish you with the views of the government on the subject.

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*New Brunswick: Attorney General McNair:*

Recently this government was requested to consider a resolution passed by the Ontario Sheriff's Association looking to a change in capital punishment which I am informed has been brought to the attention of your Department.

The government of New Brunswick favours a change in the system so that all executions may be carried out at the penitentiaries.

They were also of opinion that the form of punishment should be changed from hanging to the electric chair or lethal chamber.

As to the alternative methods, they expressed no definite opinion. To my mind, the lethal chamber has some advantages.

That is a complete statement.

Mr. HOWDEN: I do not think it makes very much difference once the trap is sprung or once the gas is set free as to which method you use. It is the preliminary steps that lead up to the actual execution that matter. I think it would be interesting to know just what happens to the prisoner up to the time that he is set in the chair as compared with what transpires in the case of hanging. In hanging there is quite a parade through the courtyard, and then the man if he has courage enough climbs the steps between the guards and is placed on the trap, his head is covered and the noose placed around his neck, all of which cannot be a particularly desirable sensation for one who experiences it. I was just wondering what the preparations would be—

Mr. BLAIR: The head shaved.

Mr. HOWDEN: The head is shaved for the electric chair. In the matter of this lethal gas I presume there is the same parade, the man is simply led in and placed on the chair and strapped there. I was wondering if Mr. Plaxton in the course of his investigation had any conversation with the authorities as to the reaction of the persons executed, and if so it would be interesting to us to hear them.

The WITNESS: I am afraid I cannot answer that question very fully, but in Colorado the executions almost invariably are carried out in the evening after 8 o'clock after all the prisoners are in the cell block and the place is thoroughly quiet. They are quite unaware of what is going on. I was given to understand they carry out the executions with great dispatch. Very little time intervenes between the time they prepare the solution and the time they bring the prisoner out.

*By Mr. Howden:*

Q. To the best of your belief the other prisoners in the institution are not aware that the man is being dispatched at all?—A. No, not aware of it at all; that was the impression I received.

Mr. TAYLOR: That determines one condition of humanity.

*By Mr. Blair:*

Q. Have you a report from your department as to the length of time it has taken to hang many persons? I have some reports from there, and I have other reports.—A. Yes, I have.

Q. Twenty-five minutes?—A. I have an official medical report of the observations made at each of the seven executions by lethal gas carried out in the Colorado state prison. The details are set out here.

Q. Have you a report from your own department about those protracted cases of hanging?—A. No, sir, I have not.

Q. For instance, one case where a man was hanging for twenty minutes and guards caught him by the feet and pulled on him for five minutes before they thought he was dead?

[Mr. C. P. Plaxton.]

The CHAIRMAN: Is that authentic? It is going in the evidence.

Mr. BLAIR: It is a paper report; it is difficult to know; but it is in different papers.

The CHAIRMAN: I think you had better have it authenticated.

Mr. BLAIR: That is why I wanted to get it from the department.

The CHAIRMAN: You made the statement, and it will appear in the evidence as authentic.

Mr. HOWDEN: It is undoubtedly desirable once it is decided upon to destroy a man and the process has been begun, the sooner it is absolutely consummated the better. But it is my opinion that once a person has become unconscious whether from convulsions or from having his neck stretched or from taking hydro cyanide gas or anything else he has no knowledge of pain or sensation. He suffers all his punishment up to that time. It is suggested by Dr. Blair that somebody hung onto a man's legs. I would not think it would make much difference if they had hung there for a month after the man had his neck broken; I do not think he would have any sensation anyway.

Mr. BLAIR: You will find this in Hansard of 1935 at page 2440 and 2441; Mr. Lapointe: "...I believe the electric chair or some other device might be preferable to this remnant of the old days when such things as we have read about in the papers recently are likely to happen. I just suggest to my Hon. friend (that is to the Hon. Mr. Guthrie) that the question ought to be studied, and I think it is a reform that should be brought about in this country."

The CHAIRMAN: When was that?

Mr. BLAIR: In Hansard of April 4, 1935, at page 2440. Then Mr. Lapointe goes on to say that the use of a lethal chamber does not require the services of an expert, and the duties can be performed by any prison guard. That has already been brought out by Mr. Plaxton.

*By Mr. Taylor:*

Q. Mr. Plaxton, you did not witness any executions?—A. No, thank goodness.

Q. You went there purely in an enquiring way?—A. Purely fact gathering.

Q. In that enquiring attitude of mind you would naturally be able to tell whether the replies that you received were honest in intent? Did you gather that lethal destruction was the more humane method?—A. Most decidedly.

Q. You have no doubts about that?—A. I have no doubts myself about it.

Mr. BERTRAND: I do not think there is any doubt that the lethal chamber is the more humane method, and I do not think we should waste any more time on this point. The only question is as to its deterrent effect. Is it as strong a deterrent as hanging?

Mr. HOWDEN: We are not through here yet, Mr. Chairman.

*By Mr. Howden:*

Q. I was interested in the description of the arrangement of the cell block, but I was not sure whether Mr. Plaxton was speaking of the cells of the condemned men or the cells of the prisoners generally. Is the cell block of the condemned men in a separate building or in the building in which the prisoners are kept, the prisoners at large?—A. No, they are not at large, they are in jail.

Q. It is the place where the prison population live?—A. Exactly, each has his own cell and is placed in there at a certain hour in the evening.

Q. I gather from your submission that—A. The gas house is entirely separate.

Q. Entirely separate?—A. Yes; some distance away in the case of Colorado.

Q. It seems to me that you stated that the building or the chamber that was erected for the purpose of despatching the condemned men was one in

which he was kept a little time before he was taken into the gas chamber?—A. Just immediately before execution was carried out.

Q. For an hour or so?—A. If the committee would be interested I can give you a description.

Q. That is what I consider to be an important matter, what leads up to the execution. After the execution I do not think it makes very much difference at all, to tell the truth.—A. This is a description of the Colorado gas house:

The Colorado state penitentiary is located at the foot of a razor-back mountain which rises to a height of several hundred feet. The lethal gas house is located on the slope of the mountain outside of the rear wall of the penitentiary, but within the precincts of the penitentiary. It is a brick structure, covered with stucco on the outside. Access to the house is had through the centre door which leads into a corridor, on one side of which there are two wash rooms equipped with toilets and on the other side of which is the gas chamber. The gas chamber itself is a solid steel tank 8 feet by 10 feet by 10 feet, in the walls of which there are heavy air-tight plate glass windows. The door to the tank is a heavy steel door. Rubber gaskets around the jamb serve to render the door, when closed, air-tight. In the centre of the tank are three chairs, constructed of steel, in which the victim or victims are placed. Cut in the foremost part of the seat of each chair is a triangular hole which permits the full force of the gas to strike the victim's face within ten seconds after the first emanation of gas. The solution used is three pints of sulphuric acid, three quarts of water, and fifteen one-ounce balls of sodium cyanide 90 to 98 per cent. The sulphuric acid and water are mixed for ten minutes in a stone jar before the cyanide is applied. The stone jar containing the solution is placed directly under the chair. The victim or victims are then strapped in the chair. That having been done, a gauze bag containing the balls of sodium cyanide is suspended on a hook at the end of a short chain attached to a light steel apparatus which passes under the seat of each chair and is operated by a lever on the outside wall of the tank. The steel door is then closed and, by turning the lever referred to, the balls of sodium cyanide are dropped into the solution. Warden Best states that their record shows that death was apparent after 45 seconds, but the natural relaxing of muscles may continue for two to three minutes thereafter.

In the centre of the ceiling of the tank there is a 10½ inch vent opened by levers from outside. Through this vent gas is released and forced out by a 10-inch exhaust fan. In addition to this, at the base of, or six inches from, the floor are four 4-inch gate valves which are opened about one minute after the top vent is opened thereby causing considerable fresh air to enter the chamber and aid the fan in expelling the gas from the chamber. The release vent in the ceiling is not opened for fifteen minutes after the gas has first been given off. This is done in order to be thoroughly certain that the victim is dead, as the chamber is not equipped with a stethoscope to determine the heart action. However, the warden states their previous experience in cases of hanging was that death occurred within sixty seconds, although heart beats were audible as long as twelve to thirteen minutes thereafter. After the agitation of air for five minutes the chamber door is opened, the victim taken out and an autopsy held in accordance with law.

*By Mr. Clarke:*

Q. From 1924 how many executions have there been in the State of Colorado?—A. In the state of Colorado?

[Mr. C. P. Plaxton.]

Q. Yes.—A. It was put into effect there in 1934. Up to last year, the time we were there, they had carried out seven executions.

Q. Seven?—A. Yes.

Mr. TAYLOR: From 1912.

Mr. CLARKE: From 1934, I said.

*By Mr. Clarke:*

Q. How many executions were there in the period from 1934 to 1936, the year you were there, which takes in a period of twelve years?—A. Curiously enough, also seven in the case of Nevada.

Q. Only seven?—Seven; but there were fourteen awaiting execution in the case of North Carolina.

Q. You have no report of them?—A. I have no report of them.

*By Mr. Howden:*

Q. Then from what you saw the prisoner still has to go that journey from the cell over to the death house on the night of the execution?—A. Yes, I would think so.

Q. So long as he is a courageous person and sufficiently brave to hold his nerve he is all right; but should he crumble and give way to hysteria and screams of terror and one thing and another it would be very uncomfortable for the other inmates. That is neither here nor there, I suppose. (No audible answer.)

Mr. HYNDMAN: Are we on the point at the present time of deciding whether hanging or gas is the more humane?

The CHAIRMAN: Dr. Blair's bill proposes to amend the Criminal Code by substituting the following proposed section for section 1062: "In all cases where an offender is sentenced to death, the sentence or judgment to be pronounced against him shall be that he shall be put to death by lethal gas; and such method shall be used in all executions following the coming into force of this section." The order of reference asks us to study that proposed amendment and decide whether we approve of it or not.

Mr. HYNDMAN: I ask Dr. Blair if he considers lethal gas the most humane method of destroying a criminal.

The CHAIRMAN: That is what we have to decide upon.

Mr. BLAIR: We are not particular as to what type of lethal gas they use. I can recall a case of four men in a car who stopped the car but kept the engine running and shortly afterwards were found dead. You all recall an incident that happened about two weeks ago where a man drove into Detroit with his boy in the back seat of the car. When he arrived there the boy was dead from carbon monoxide. In the general hospital where I was house surgeon six people were brought in who were taken out of a car where the engine was left running in the garage. Some friend came along and pulled them out. If that had not happened they would have been dead. They were asked why they did not turn off the key when they knew they were being poisoned and their reply was they didn't know anything about it. I can recall another case of a man who was sitting beside a stove with the lid off reading a paper. A friend came along and found that he was asleep. He was asked why he did not put the lid on the stove and his reply was he did not know of the effect of the carbon monoxide gas.

I should like to refer to the question of deterrent, as that has come up. The law has exaggerated the question of deterrent very, very much. The high courts of England passed a resolution that if Sir William Wallace had been put in the Tower in England it would have proved the greatest inspiration that Scotland ever had. Shakespeare in his plays always puts his heroes to death. Why? To advance their cause. Take King Lear, Macbeth, Cordelia. He is true to human nature. If we had put the Kaiser to death it would have been the

greatest calamity that ever happened to Britain. We all felt like putting him to death. I myself felt like shooting him if I had a chance, but if we had done so he would have become a martyr.

Mr. BERTRAND: He would have been a martyr because he was fighting for a cause.

Mr. HOWDEN: I think you are out of order.

Mr. BLAIR: Take the Master—

The CHAIRMAN: I think this is a matter for argument by the committee after we get the evidence in.

Mr. BLAIR: May I read a report of the British authorities?

Mr. HOWDEN: I submit we have no right to detain Mr. Plaxton.

The CHAIRMAN: We shall have the opportunity later on.

Mr. BLAIR: Quite right; but I was asked a question.

The CHAIRMAN: Are there any further questions in connection with Mr. Plaxton's report?

*By Mr. Hyndman:*

Q. Mr. Plaxton, did you find out about any other method of execution other than lethal gas?—A. No, sir.

*By Mr. Taylor:*

Q. May I ask Mr. Plaxton if in his visits he discovered any disposition to use other methods of gassing, or any statements about other methods of gas punishment? They seem to adhere to the one, hydro-cyanic acid.—A. That is the only type of gas they use in those particular states.

Q. They did not give you the idea that there might be a more humane gas than hydro-cyanic gas?—A. No, sir.

Mr. HOWDEN: Hydro-cyanic gas and carbon monoxide are the only two inoffensive gases. One is instantaneous and the other is a more gradual process. People have been submitted to carbon monoxide for an hour or so and some of them are still living.

The CHAIRMAN: Have you any further questions, gentlemen?

Mr. HOWDEN: I have a question but it has not to do directly with the submission of evidence. It was suggested at the last meeting that perhaps Mr. Plaxton might be able to suggest names of persons who might throw valuable light on our investigation. I should like to ask Mr. Plaxton now if he can think of anyone whose testimony would be of value to us?

The WITNESS: Well, I would suggest that if the committee is going to investigate the use of lethal gas they certainly ought to call Warden Best of Colorado state prison. Colorado has the very latest equipment, as I understand it. Warden Best is a very intelligent chap and I am sure would be glad to assist the committee.

Mr. HOWDEN: It was Nevada that had the first installation.

The WITNESS: You could also call Warden Lewis of Nevada state prison at Carson City. I am sure he would be quite willing to attend and furnish the committee with whatever information he could.

*By Mr. Clarke:*

Q. Mr. Plaxton, when you were sent on this mission of investigation did you visit any places where other than lethal gas was used?—A. No, sir.

Q. Then you would not have the information to give a reasonable decision on the matter as to whether lethal gas or any other procedure was the better?—A. No, sir.

[Mr. C. P. Plaxton.]

Mr. HOWDEN: We are only investigating lethal gas of course. The remark of Mr. Clarke suggests that we might have one of our hangmen come here, or something of that kind.

Mr. CLARKE: I should think what we are receiving from Mr. Plaxton is similar to a report of the grand jury. We are only hearing one side of a question.

Mr. HOWDEN: You might call one of our hangmen.

The CHAIRMAN: I think the committee would like to hear Mr. M. F. Gallagher, chief of the Remission branch, who has had many years' experience in connection with remission of sentences, including the death penalty. A man who is convicted of murder is not hanged immediately. His case is investigated by the Remission branch, and I think we should hear Mr. Gallagher.

Mr. HOWDEN: I cannot see how it would have any bearing on the case of death by hanging or lethal gas.

Mr. BLAIR: Let Mr. Plaxton guide us in regard to whom we should send for.

The CHAIRMAN: I was going to make the suggestion that we hear Mr. Gallagher at our next meeting on Thursday as we shall not have time to send for anybody else. Is that agreeable to the committee? I think we should hear Mr. Gallagher as he has a wealth of information, gathered over a number of years.

Mr. BLAIR: He will come at any time.

Mr. HOWDEN: I still feel, although it would be very interesting to hear Mr. Gallagher, I am unable to see what bearing he would have on the reference before us, which is lethal gas. He could only give us indirect information. What we want to get as far as possible is the most direct testimony as to how quickly death occurs after the victim is exposed to the consummation of a death penalty. Anything that he can give us with regard to the apparent struggles of the criminal after he has been subjected to the method of taking his life is in order.

The CHAIRMAN: There is Mr. Ellis, our own chief executioner.

Mr. HOWDEN: He would be the sort of man to call, he ought to have some ideas.

Mr. BLAIR: Get him and the man from Colorado.

Mr. BERTRAND: If you want to hear a man who has seen many hangings, call Mr. Omer Lapierre, sheriff of Montreal. I am sure he has witnessed more than 25 hangings.

The CHAIRMAN: How many executions has Mr. Ellis carried out in this country?

Mr. BLAIR: Fifteen executions in a year.

The CHAIRMAN: Does the sheriff of Montreal carry out his own executions?

Mr. BERTRAND: No, the executions are carried out by Mr. Ellis but Mr. Lapierre has to be present. They have hanged as many as four in a day.

Mr. HOWDEN: You say he has been there as a witness?

Mr. BERTRAND: Yes.

Mr. HOWDEN: He would be a good man to have here, because I imagine the hangman would become more or less hardened to the business.

Mr. HYNDMAN: If we are trying to have a humane lethal gas why not adopt laughing gas; let the criminal have a good laugh. He won't know what is going on. Let him pass out very easily. Let him laugh a long while and gradually bring on the chloroform. Make it feel pleasant for these criminals to pass out of the picture.

Mr. HOWDEN: You can put a man to sleep with nitrous oxide.

Mr. TAYLOR: Does nitrous oxide always produce laughter?

Mr. HOWDEN: It produces an excitable, convulsive condition.

Mr. TAYLOR: I move that Mr. Lapierre be called.

Mr. BERTRAND: I second that.

Mr. CLARKE: I think we should also hear the hangman. He is a very important man. He has had more experience.

The CHAIRMAN: What is the wish of the committee in regard to that.

Mr. O'NEILL: It seems to me, rather than have the hangman coming here we should decide definitely whether the different methods will have any effect on lessening crime. We are not interested in these men because they commit crime. The laws of the country are put there to try to keep people living within reasonable bounds one with the other. They are trying to keep people from committing crimes. We are not interested in punishing these people because they have committed crimes, but we want to do something, and we impose a penalty to try to keep people from committing crimes. That is my idea. Now, it makes no difference, if you are going to impose the death penalty, how you put them to death, whether you put them to death in the most humane way possible or not. In my experience with doctors in hospitals, once they put the mask on your face and start to give you the anaesthetic, so far as you are concerned there is no more pain at all. You suffer your greatest pain from the time the doctor tells you you are going to have an operation and the time the mask is put on your face. Once the mask is put on your face there is no more pain until you come out of the anaesthetic. I think the same thing applies in regard to the death penalty. Once the judge says: you will hang by the neck until you are dead, the suffering commences, and continues until the sentence is carried out. It would be the same in regard to the electric chair, the lethal chamber or anything else. The prisoner knows he is going to be put out of the world and that is all there is to it. It seems to me we should decide the other question first before we bring the hangman in. We should decide whether the method of putting the man out of existence has anything to do with the lessening of crime or has a deterrent effect.

Mr. TAYLOR: It is very definitely my opinion that the punishment of crime is not a deterrent and has not been regarded in that light by the law. After a man has performed his punishment he is told that he is a free man. He is told that he has paid his price, submitted to his penalty and is now free, and he enters the community as a man just like his fellows. Of course, I am saying that advisedly because lots of sadistic people will follow a man who has committed a crime and will endeavour to prolong his punishment. In my opinion the idea of punishment by the law is not to deter other people from committing the same crime but that the man shall pay for his own commitment. We know that psychologically the child who is told that he must not do a thing immediately goes and does it. We must take these things into consideration. We know very well that hanging and garrotting and all other kinds of punishment did not deter people from crime.

Mr. BERTRAND: That is contrary to all we know about criminal law.

Mr. HOWDEN: This is a serious committee which has been appointed to inquire into the comparative merits and demerits of hanging and death by lethal gas. I think it is certainly the duty of this committee at this time to enquire to a sufficiently particular degree so that we will have a fair idea about the whole matter; and in order to bring the matter to a definite point I will move that Mr. Lapierre, the sheriff of Montreal, be asked to appear.

The CHAIRMAN: That has been passed.

Mr. HOWDEN: Oh, has it been passed? That is fine.

[Mr. C. P. Plaxton.]

The CHAIRMAN: The question was whether we would have Mr. Ellis, the public executioner, here as well. He caused this discussion.

Mr. HYNDMAN: I would like to see Mr. Ellis before this committee. He has had a long experience and can inform us how long it is after the executed persons have died.

Mr. HOWDEN: I am not in favour of that. I think we would get a biased opinion. He is a public hangman, and he has been putting people to death for goodness knows how long, and he would have a very one-sided opinion.

Mr. BARBER: I have the same idea.

Mr. HYNDMAN: I withdraw my motion.

The CHAIRMAN: Well, then, we will send for the sheriff of Montreal. In order to keep the record complete, as far as I am concerned, I think we should hear from our own chief of the Remission Branch.

Mr. HOWDEN: I will withdraw any objection I may have made, but I do not think it will be worth while.

The CHAIRMAN: We could have the two of them on the one day, and that would give us a complete record of what transpires from the time the judge pronounces sentence on a man until he is either put out of existence or his sentence is commuted. We would have a good record of what takes place in our own country with regard to death sentences. Is there anyone else suggested?

Mr. HOWDEN: It has been suggested that we call these men from Nevada and Colorado.

Mr. BLAIR: The gentleman from Colorado has travelled all over the United States gathering information, and he has travelled over other countries of the world. He has a general summary of death penalties.

Mr. CLARKE: We have Mr. Plaxton with us. He has communicated with these men, and he has brought back his report. I do not know that hearing from these other experts has any particular value.

The CHAIRMAN: Do I understand that Mr. Plaxton is prepared to give from his report data that he has received from executioners in the states whom he has visited as to the time the condemned man enters the box until he is finally pronounced dead?

The WITNESS: Yes. I have that.

The CHAIRMAN: Would the committee be interested in hearing that?

*By the Chairman:*

Q. Mr. Plaxton, will you give us the benefit of your research with respect to that?—A. These are the official medical reports of observations made at the last three executions of capital sentences at the Nevada State penitentiary:—

**1. John Hall**

Prisoner entered gas chamber .. . . . .	6.26.00	a.m.
Doors locked.. . . . .	6.27.00	
Gas reaches face.. . . . .	6.27.30	
Unconscious.. . . . .	6.27.40	
Officially pronounced dead .. . . . .	6.38.15	
Removed from chamber .. . . . .	7.09.00	

**2. Ray Elmer Miller**

Prisoner entered gas chamber .. . . . .	4.45.45	a.m.
Doors locked.. . . . .	4.47.00	
Gas strikes face.. . . . .	4.47.35	
Unconscious .. . . . .	4.48.00	
Pronounced dead .. . . . .	5.00.30	
Removed from chamber .. . . . .	5.23.30	

## 3. Joe Behiter

Prisoner entered chamber .. . . . .	4.33.00	a.m.
Doors closed.. . . . .	4.34.15	
HCN struck face.. . . . .	4.35.00	
Unconscious .. . . . .	4.35.55	
Pronounced dead .. . . . .	4.45.45	
Removed from chamber.. . . . .	5.25.00	

Then I have the official medical reports of the executions carried out in Colorado:—

## 1. William Cody Kelly, No. 17956—June 22, 1934

Prisoner entered chamber .. . . . .	7.51	p.m.
Doors locked.. . . . .	7.53	
Eggs enter solution .. . . . .	7.54	
Gas strikes prisoner's face .. . . . .	7.54½	
Prisoner apparently unconscious .. . . . .	7.55	
Certainly unconscious .. . . . .	7.57	
Head falls forward .. . . . .	7.59	
Head falls backward .. . . . .	7.54½	
Heart stopped .. . . . .	8.05	
Respiration stopped .. . . . .	8.06	
Pronounced dead .. . . . .	8.06	
Blower started .. . . . .	8.08	
Chamber doors opened .. . . . .	8.20	
Prisoner removed from chamber .. . . . .	8.20½	

## 2. Leonard Belongia, No. 18545

Prisoner entered chamber .. . . . .	7.47	p.m.
Doors locked .. . . . .	7.50	
Eggs enter solution .. . . . .	7.51	
Gas strikes prisoner's face .. . . . .	7.51	
Prisoner apparently unconscious .. . . . .	7.52	
Certainly unconscious .. . . . .	7.57	
Head falls forward.. . . . .	7.52½	
Head falls backward .. . . . .		
Heart stopped .. . . . .	7.59	
Respiration stopped .. . . . .	8.00	
Blower started .. . . . .	8.12	
Chamber doors opened .. . . . .	8.12	
Pronounced dead .. . . . .	8.12	
Prisoner removed from chamber .. . . . .	8.14	

Mr. HOWDEN: That is much slower.

The WITNESS: They have not the electrocardiograph. The third case is as follows:—

## 3. Otis McDaniel, No. 18927

Prisoner entered chamber .. . . . .	7.47
Doors locked .. . . . .	7.51
Eggs enter solution .. . . . .	7.51½
Gas strikes prisoner's face .. . . . .	7.51½
Prisoner apparently unconscious .. . . . .	7.52½
Certainly unconscious .. . . . .	7.53½
Heads falls forward.. . . . .	7.55
Head falls backward .. . . . .	7.54½
Heart stopped .. . . . .	8.01

Respiration stopped .. . . . .	8.01½
Pronounced dead .. . . . .	8.01
Blower started.. . . . .	8.05
Chamber doors opened .. . . . .	8.19
Prisoner removed from chamber .. . . . .	8.19½

Mr. HOWDEN: There is a suggestion there. In one of the instances that you gave the head first fell forward. It fell back and then fell forward.

The WITNESS: It goes back first.

Mr. HOWDEN: I would imagine it would be a spasm that would pull it back. When the head is completely lapsed it will tumble forward, so I would be inclined to think there would have to be a spasm to pull it back. The head is not supported. The man sitting there keeps his head up until he becomes unconscious and the head drops. The natural way for his head to drop is forward. If you dispatch a man with a bullet, his head is not going to fall back, it is going to fall forward. Take the case of any man who is sitting up straight and his head will drop forward and not back.

The WITNESS: Now we come to the next one:—

#### 4. Louis Pachico

Prisoner entered chamber.. . . . .	7.49
Doors locked .. . . . .	7.55
Eggs enter solution.. . . . .	7.55½
Gas strikes prisoner's face.. . . . .	7.55¾
Prisoner apparently unconscious.. . . . .	7.56
Certainly unconscious .. . . . .	7.57
Head falls forward .. . . . .	7.57½
Head falls backward .. . . . .	7.57½
Heart stopped.. . . . .	8.00
Respiration stopped .. . . . .	8.01
Pronounced dead .. . . . .	8.01
Blower started.. . . . .	8.05
Chamber doors opened .. . . . .	8.15
Prisoner removed from chamber .. . . . .	8.18½

Mr. HOWDEN: In your conversation with the authorities did you get any record of a struggle taking place after the freeing of the gas?

The WITNESS: In one case at Nevada we did. We had occasion to investigate it with the warden.

The CHAIRMAN: Have you got the information with regard to that?

The WITNESS: Yes. That is what led us to investigate the case. There was an article published in the *American Mercury* for May 1933, entitled "Capital Punishment By Lethal Gas," and the author was a man named Anthony M. Turano, and it turns out that he is a lawyer practising in Reno, Nevada. After quoting from a record by Dr. Edward E. Hamer of Nevada, health officer, Carson City, on the execution of Robert White on June 2, 1930, the author stated:—

The record does not greatly differ from that in the case of John Hall, whose execution I witnessed on November 28th last, except that in the Hall case loss of consciousness apparently occurred some seconds later. Once the pellets fall into the liquid, there can be no bungling, and death is a certainty within from nine to fourteen minutes.

On the question of pain, there is considerable variance in medical opinion. Some physicians hold that since the drug is a quick paralysant of the respiratory organs, its effect must be painless. They hesitate to assert, however, that such a paralytic effect can possibly be as instantaneous as that produced by an electric current.

Others affirm, just as emphatically, that a great deal of pain must be involved, at least during the first minute, on account of the fact that death by suffocation is always very painful.

In the case of Hall, the heart action was recorded by Dr. Erwin J. Hund of Reno by means of an electrocardiograph. His findings are here given in part:

The heart action continued for more than a minute after its cessation was announced by stethoscopic observations. There was evidence of convulsions for as long as four minutes and twelve seconds after the first inhalation of gas. There was evidence of strangulation indicating that this form of death is not painless, nor as rapid as is claimed. The time of possible pain is certainly much longer than in successful executions by hanging, the guillotine, or electrocution. The first two involve instantaneous severing of the spinal cord, and the latter a general paralysis of heart and nerves. Hydro-cyanic acid gas acts, at first, primarily as a violent paralysant of respiration only, with resulting strangulation.

Then he goes on to say what he saw.

Mr. HOWDEN: Is this a doctor giving that testimony?

The WITNESS: No, he is a lawyer called Turano. He continues:—

I saw the prisoner tilt his head backward twice in violent convulsions during the first three or four inhalations. The neck muscles were taut, the eyes seemed to pop from their sockets, and there was an unmistakable struggle of the arms and body against the leather straps of the chair. The face remained upturned for fully thirty seconds during the second convolution, while the features were horribly distorted.

It may be true that some of these reactions were unconscious and that they also accompany other forms of execution, but the point is that they are obstreperous enough to dispel the popular notion that death by lethal gas, under the present formula and method, is an instantaneous or peaceful dropping to sleep.

In brief, it seems to be plain that the new method carries no humane advantage over a well-performed hanging, and much less over a competent electrocution. A certain amount of physical pain may be reasonably presumed, together with all of the mental torture that attends the ordeal, both in itself and by anticipation.

Now we took that up with the warden of Nevada and he has written the following comment:—

I have in front of me Anthony Turano's article "Capital Punishment by Lethal Gas." (*Mercury*, May 1933.)

While it is true that the first capital sentence executed by lethal gas, was very much of an experiment, it did show what could be done from the standpoint of humaneness. Each succeeding operation was an improvement over the last until we can safely say that the last three executions proved to our satisfaction here in Nevada, that our method was farthest advanced, in safety from bunglesome horrors, bothersome, costly preparation and certainly humaneness.

In the case of John Hall, the particular execution that is mentioned in *Mercury*, the brief of the actual recording which accompanies this letter, will I think refute the author of *Mercury's* article.

It is true that there are reflex actions in some cases and in this particular case, but they were, according to attending physicians, muscular.

Conceding that death does not ensue for official pronouncement in less than the ten to fourteen minutes as stated in *Mercury*, the points [Mr. C. P. Plaxton.]

in favour of our method are: Certainly, with the first two inhalations the condemned is unconscious and free from pain. The action does not present the repulsive aspect that other used methods, particularly hanging does to those who are forced to carry out the Law's demands as witnesses.

You must consider that Mr. Turano, a lawyer of Reno while an estimable gentleman, is none the less a "money writer" and that he witnessed one execution from behind a double plated glass window. The Doctor Hund referred to is a physician who sought to obtain the body of Gee Jon the first victim of Lethal Gas for experimental purposes. (Needless to say he was not granted the request.) Doctor Hamer, the Nevada health officer, also referred to in Mercury has expressed himself very strongly on the subject. He says, in substance, that he has witnessed every known modern method of execution; that lethal gas is certainly the most humane and expeditious.

Arizona, had an experience similar to the gruesome Montreal affair that shocked the world and that state investigated Nevada's method, not by a visit such as you made, but by sending chemists and other experts who visited Nevada's prison and some witnessed the short preparation and the actual execution of the death sentence imposed on our Ray Elmer Miller. Arizona adopted lethal gas at once and has used it successfully since. Many other states have followed along, not because it was something new but rather in the opinions of their experts it was the best.

This writer recently visited one of the largest prisons in the world (San Quentin). There I saw a veritable Chamber of Horrors, with ropes weighted, being stretched in anticipation of taken-for-granted victims. I could not help but wonder about our boasted civilization.

It is not pleasant to officiate at an execution of any kind. It is certainly less offensive to me to contemplate a "gas" case than an electrocution or hanging. Believing as I do it is difficult to understand why states continue to use electricity or the horrible outmoded hanging.

The gas method of execution can be improved of course. Some way of lessening anticipation should be devised, but certainly not "within a given week" as Mr. Turano suggests; that would be worse than a definite date and hour. This because the condemned might be expecting the end at any time during the specified week, and perhaps die a dozen deaths instead of the one imposed by law.

Nevada pioneered this gas business, and we have only our own experience to benefit towards improvement. Today you folks with your undoubted thoroughness have opportunity, if we must have capital punishment, to extend not into experiment but into almost perfect efficiency. You have our experience to turn over to your experts who after having studied Nevada's, Colorado's, and Arizona's methods will certainly be able to devise something for you that will banish from thought the "Bloody Jefferies" hangings.

**The CHAIRMAN:** Having heard Mr. Plaxton give his own personal observations and also the different reports of the different states of the United States which he has visited in regard to lethal gas, is the committee of the opinion still that we should hear someone from these states in addition to Mr. Plaxton, or should we have the sheriff of Montreal and Mr. Gallagher and then decide later on as to whether we should call these other gentlemen.

**Mr. HOWDEN:** Yes, I think so.

**Mr. HALL:** I think Mr. Plaxton's report is very full and we cannot improve on it.

**Mr. HOWDEN:** I think we should have an intelligent individual here who has seen both methods and will be able to give us an outline regarding them.

The CHAIRMAN: Have we such a person?

Mr. BLAIR: Our man from Colorado has travelled around for that purpose.

Mr. CLARKE: You will have only that man's opinion, and that is all. He will form his opinions and give us his conclusion.

Mr. HOWDEN: Half a loaf is better than none at all.

The CHAIRMAN: The committee has to keep before it the statement of Mr. Plaxton based on his information from these different states as to the length of time it requires to carry out an execution by lethal gas, and if we hear the sheriff of Montreal we will then be in a better position to decide what further we shall do.

Mr. BLAIR: Mr. Lawrason of Toronto has written me suggesting that he would be pleased to support this movement at any time.

The CHAIRMAN: Doctor, I have in this file letters from people who want to come and give evidence. I do not think we can possibly hear everybody who wants to come. We have some ladies here. They are very pronounced against any lessening of the execution methods. I think that if we extend the invitation too far we will find ourselves with a lot of witnesses we will have to hear.

Mr. BLAIR: Mr. Lawrason is the president of the Sheriffs' Association of Ontario. He lives in Hamilton.

The CHAIRMAN: For instance, I have a letter here from one lady, a mother—I will not mention the lady's name, but I will mention briefly what she says.

Mr. BLAIR: It makes quite a difference what her name is. I would like to hear the name.

The CHAIRMAN: She says, "When we mothers think of the fate of that poor young girl Ruth Taylor going home at night as any one of us may have to do and a fiend take her life with a wrench and a heavy bar of cement, no sleeping potion for her—" and she goes on in that vein. Now, if we extend our invitations for witnesses we will have many to call.

Mr. HOWDEN: I do not think we are interested in that sort of thing at all. I think we are interested in having testimony that will enlighten us upon the nature of the reaction of the subject by hanging on the one hand and by being destroyed in a lethal chamber on the other. Direct testimony by somebody who has seen both is what we want, if possible.

The CHAIRMAN: Did you say, Mr. Bertrand, that the sheriff will come at any time?

Mr. BERTRAND: Yes, I think so.

The CHAIRMAN: Shall we fix a date? Mr. Gallagher will be available, I should think, at any time, and we had better have both of them on the same day. Will it be all right if the clerk gets in touch with the sheriff of Montreal and finds what day is most convenient for him to be here, and leave it to the call of the Chair?

Now, I think the thanks of the committee are due to Mr. Plaxton for his attendance here to-day and for the very able presentation he has made to us.

The committee adjourned to the call of the Chair.













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SESSION 1937

HOUSE OF COMMONS

CANAC 2  
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SPECIAL COMMITTEE

ON THE

# CRIMINAL CODE

(Death Penalty)

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MINUTES OF PROCEEDINGS AND EVIDENCE  
No. 2

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TUESDAY, FEBRUARY 23, 1937

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## WITNESSES:

Mr. Oscar Bélanger, Deputy Sheriff of Montreal, P.Q.

Mr. M. F. Gallagher, K.C., Senior Advisory Counsel and Chief of Remission Branch, Department of Justice, Ottawa.

J. O. PATENAUME, I.S.O.  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
OTTAWA  
1937

MEMBERS OF THE COMMITTEE

Mr. GEO. W. MCPHEE, K.C., *Chairman*

Mr. Barber,  
Mr. Bertrand (*Laurier*),  
Mr. Blair,  
Mr. Clarke (*Rosedale*),  
Mr. Girouard,  
Mr. Hall,  
Mr. Hamilton,  
Mr. Howden,  
Mr. Hyndman,  
Miss Macphail,

Mr. McCulloch,  
Mr. McIntosh,  
Mr. McPhee,  
Mr. O'Neill,  
Mr. Plaxton,  
Mr. Raymond,  
Mr. Sinclair,  
Mr. Taylor (*Nanaimo*),  
Mr. Veniot.

J. P. DOYLE,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

February 23, 1937.

The Special Committee on amendments to the Criminal Code (Death Penalty), met this day at 11 o'clock a.m. The Chairman, Mr. G. W. McPhee, presided.

The following members were present: Messrs.—Barber, Bertrand (*Laurier*), Blair, Clarke (*Rosedale*), Hamilton, Howden, Hyndman, Macphail (Miss), McPhee, O'Neill, Plaxton, Sinclair and Taylor (*Nanaimo*).—13.

The Chairman read a letter from Sheriff Omer Lapierre, Montreal, that owing to illness he was unable to be present, but sent his Deputy, Mr. Oscar Bélanger, to represent him and submit a statement prepared by Sheriff Lapierre.

Mr. Oscar Bélanger, Deputy Sheriff of Montreal, was called, examined and retired.

On motion of Mr. Howden a vote of thanks was tendered Mr. Bélanger.

Mr. M. F. Gallagher, K.C., Senior Advisory Counsel and Chief of the Remission Service, Department of Justice, Ottawa, was called, examined and retired.

On motion of Mr. Plaxton a vote of thanks was tendered Mr. Gallagher.

Mr. Howden moved that Dr. Daniel Plouffe, Superintendent of the Criminal Insane Asylum, Bordeaux, Quebec, be called to give evidence. Carried.

The Committee adjourned to meet again at the call of the Chair.

J. P. DOYLE,  
*Clerk of the Committee.*



## MINUTES OF EVIDENCE

HOUSE OF COMMONS, Room 268,

February 23, 1937.

The Special Committee on amendments to the Criminal Code (Death Penalty) met at 11 o'clock. The Chairman, Mr. G. W. McPhee, presided.

The CHAIRMAN: Will you come to order, gentlemen? At the last meeting it was decided to call two witnesses, Sheriff Lapierre of Montreal and Mr. M. F. Gallagher, K.C., the chief of the Remission Branch of the Department of Justice. Mr. Lapierre was summoned and is unable to come owing to serious illness in his family; and he has sent his deputy, Mr. Bélanger, who states that he is in a position to give similar evidence to the committee as what Sheriff Lapierre could give. Is it the wish of the committee that we hear Mr. Bélanger?

Some Hon. MEMBERS: Carried.

The CHAIRMAN: Is there anything else before we start with Mr. Bélanger? Are there any suggestions? If not, we will go ahead with Mr. Bélanger.

I think probably before Mr. Bélanger gives his evidence, for the purposes of the record we had probably better read the letter from Sheriff Lapierre to Mr. Doyle, the secretary of the committee. It reads as follows:

The serious illness of my son and my suffering from the grippe will prevent my going to Ottawa to-morrow to appear before your committee.

I delegate as my substitute the Deputy-sheriff who in regards to the question pending before your committee has the same experience as myself, and also shared my opinion on this subject.

Through him I send you my statement on this question. It is understood that the ideas expressed in this statement, as well as the answers of the Deputy-sheriff before your committee, must, in no way or form, be considered as reflecting the opinion of the Attorney General of the Province of Quebec, but merely my own personal opinion.

Mr. HOWDEN: That is what we want, Mr. Chairman.

The CHAIRMAN: Then we have another letter to Mr. Doyle stating as follows:—

This letter is to certify that the bearer, Mr. Oscar Bélanger is the Deputy-sheriff of the district of Montreal, and that he is fully authorized to act as my substitute before your committee.

OSCAR BÉLANGER, called.

*By the Chairman:*

Q. Mr. Bélanger, what is your position?—A. Deputy-sheriff, district of Montreal.

Q. How long have you been such deputy?—A. Since 1921.

Q. Have you a statement in connection with the matter that we are discussing now, the death penalty by hanging or lethal gas?—A. I have a little memo. from the Sheriff. I do not know whether it is within the rules of your committee to file it, but if it is, I will do so.

Mr. HOWDEN: We would like to hear it first.

The CHAIRMAN: Yes.

The WITNESS: I will read it, then. It is as follows:—

I am of opinion that the actual kind of execution, that is, hanging, is the best one, as it is a lesson to those who would be tempted to commit murder.

The experience gained since 1925 (I have presided over 28 hangings in Montreal as well as in some other districts) has left with me the certitude that suffering by the condemned lasts only a few seconds and in most cases the death of the murderer is much easier than the death of his victim. The death sentence pronounced by the Tribunal is not a revenge of the society against a criminal, but instead, it is the just punishment for a crime, and what is most important is that the execution of the death sentence shall be such as to impress public opinion, naturally without adding useless sufferings to the condemned.

While awaiting their execution the prisoners from other districts of the province are brought and kept at the Montreal jail from where a break is almost impossible, and in spite of the charges pertaining to the transport of the condemned, of the scaffold, etc., the execution takes place in the county town of the district where the crime took place so as to impress the public opinion of the district and prevent other murders. To my viewpoint, death by gas dims this lesson and I would fear a rerudescence of crimes. Bill 6 merely indicates the fact of substituting hanging by death by gas, details of which I do not know.

However, I am of the opinion that the date of the execution should be set in advance so as to avoid, from a humanitarian standpoint, the anguish of a death at a date yet to come, as the least noise would bring to the condemned unnecessary fear of the fatal moment; and to a spiritual standpoint we have not the right to rob him of his death. My experience is that the majority of prisoners sentenced to die only give their thoughts to their conversion when their reprieve has been definitely refused. I am also of opinion that no matter the kind of execution chosen, it should take place in the district where the crime was committed, so as to thoroughly impress the public opinion of this district, which to my point of view is in itself a deterrent to further crimes.

The CHAIRMAN: Do you want that read? Has the committee been able to follow Mr. Bélanger?

Mr. BLAIR: Yes, I have followed him.

Mr. HOWDEN: I was not able to get all of it.

The CHAIRMAN: Shall I read it?

Mr. HOWDEN: I think you had better.

The CHAIRMAN read the statement of Mr. Belanger.

Mr. HOWDEN: Would you read that part again about the date of execution being set in advance?

Miss MACPHAIL: That is a contradiction.

The CHAIRMAN: It reads, "However, I am of the opinion that the date of the execution should be set in advance."

Miss MACPHAIL: He must mean that it should not be set in advance.

The WITNESS: If you would allow me to, maybe I could explain that. Not knowing the provision of the bill substituting the gas chamber for hanging, we might be under the impression that the date of the death might be not definite; I mean that the condemned would know that he would be executed say between the 15th and the 30th; that he would go in his room, and he would not know

exactly when this gas would be injected into the room. That we did not know. We did not know the nature of the bill. That is in case that the bill would provide this, that is why the sheriff puts this in.

The CHAIRMAN: I think perhaps the latter part will explain it. It reads:—

However, I am of opinion that the date of the execution should be set in advance so as to avoid, from a humanitarian standpoint, the anguish of a death at a date yet to come, as the least noise would bring to the condemned unnecessary fear of the fatal moment; and to a spiritual standpoint we have not the right to rob him of his death. My experience is that the majority of prisoners sentenced to die only give thoughts to their conversion when their reprieve has been definitely refused. I am also of opinion that no matter the kind of execution chosen, it should take place in the district where the crime was committed, so as to thoroughly impress the public opinion of this district, which to my point of view is in itself a deterrent to further crimes.

Mr. BLAIR: May I ask a question?

The WITNESS: Certainly.

The CHAIRMAN: I take it that the committee wish this statement to go into the record.

Mr. HOWDEN: Yes, certainly.

*By Mr. Blair:*

Q. In many cases the criminal does not belong to that community. He comes into a village among innocent people and commits a murder. Why should he be executed in that village, and why should the people of that village have to pay all expenses of the execution?—A. The explanation set forth in this statement of Mr. Lapierre is that the people where the crime has been committed should be impressed by the execution of the murderer.

Q. But the murderer is from the outside. He did not belong to that village.

Mr. HOWDEN: No, but the people do.

The WITNESS: Oh, well, it does not matter if the murderer comes from outside and commits a crime in a district. He should be hanged in that district.

Mr. HAMILTON: A school of education.

Mr. HOWDEN: We are not trying to educate murderers.

The WITNESS: If a man from Montreal goes out to Lachute and commits a murder, it is no reason to have him executed in Montreal.

The CHAIRMAN: Are there any further questions for Mr. Bélanger on the statement of the sheriff, or will he give his own statement?

*By Mr. Blair:*

Q. Why should the expenses be incurred by the innocent villagers?—A. No. The expenses are incurred by the government of the province, or the Department of the Attorney General.

Q. Not in Ontario.—A. Well, I mean in Quebec.

The CHAIRMAN: Are you correct, Mr. Blair, that in the Province of Ontario the expenses are not borne by the government?

Mr. BLAIR: I think I am quite correct that in the Province of Ontario the expenses are borne by the municipality.

The CHAIRMAN: In connection with an execution. I do not know whether that is correct or not. Unless you are sure, I do not know that it should go on the record.

Mr. HAMILTON: It is certainly not the case in an unorganized territory.

Mr. BLAIR: No, it is not the case in an unorganized territory.

Mr. HOWDEN: That is something for discussion later.

The CHAIRMAN: Yes.

*By Mr. Howden:*

Q. Mr. Bélanger, you have seen, yourself personally, a number of hangings, have you?—A. Very many.

Q. Very many?—A. Yes.

Q. Are you able to see the body of the subject that is hanged after he drops?—A. Yes.

Q. Have you ever observed any tendency to struggle or convulsion?—A. No. Everytime that I have attended hangings in Montreal, and one in Campbells Bay—

*By Mr. Blair:*

Q. How many times, Mr. Bélanger?—A. Well, I should think around 30, anyway; and the minute that the body reaches the end of the rope, it just stays there stiff, does not move, no contortion. Really I was impressed myself by the fact that the body, just the minute it reached the end of the rope, it just stayed there.

*By Mr. Howden:*

Q. Would you say, from looking at the body immediately after the drop, that the body was in a spastic condition or in a condition of spasm, or that the body was limp?—A. Limp.

Q. Limp?—A. Yes.

Q. There cannot be very much consciousness in a limp body, can there?—A. No. I do not believe there is any at all, myself.

*By Mr. Hamilton:*

Q. How often have you seen that?—A. I could not say exactly.

Q. I mean, more than once?—A. More than once? Certainly, more than once.

*By Mr. Blair:*

Q. Then the report of the papers would be false, that you had hangings where people were struggling for some time?—A. Well, I must say that the papers, for quite a few years anyway—newspaper men, are not admitted to executions in Montreal. Whatever they publish, most of the time it is imagination on their part.

*By Mr. Howden:*

Q. Can you answer me some further questions? Does the function of respiration continue after the body drops? Are you aware that the subject is breathing?—A. That I could not answer.

Q. You could not answer that?—A. No.

Q. The medical man on hand follows the pulse, does he not?—A. I have heard—I would not say every time, because I was not near enough to the doctor—but every time I have heard the doctor, he always pronounced death as instant.

Q. Instantaneous?—A. Yes.

Q. You mean to say you do not remember an occasion on which the doctor was counting the pulse after the drop?—A. No. That I cannot answer.

*By Mr. Hamilton:*

Q. Is it generally the same doctor that attends these executions?—A. Yes.

Q. What doctors in Montreal have attended a good many of them?—

A. Well, we have a doctor appointed to the jail.  
[Mr. Oscar Bélanger.]

Mr. HOWDEN: The jail surgeon.

The WITNESS: The jail doctor.

*By Mr. Hamilton:*

Q. It is the same doctor. How long has the present doctor been there?—

A. Well, he has been there, I should say, over 20 years.

Q. Has he attended all these executions?—A. Oh, no. He is attending the inmates, too.

Q. I beg your pardon?—A. He attends the inmates in the jail.

Q. Yes, I know. Does he attend all these executions?—A. Yes, certainly.

Q. Has he attended all these executions that you referred to, as part of his duty or I was just wondering?—A. Yes.

Mr. HAMILTON: I was just wondering if his evidence would not have been important.

Mr. HOWDEN: Yes, quite.

The WITNESS: Well, in all the executions that I have attended myself, it was always the same doctor, Dr. Benoit.

*By Mr. Blair:*

Q. You are giving your opinion here, which we appreciate; but have you got the opinion of the sheriffs assembled in convention in Quebec? We have the opinion of the sheriffs assembled in convention in Ontario, and they passed a resolution almost unanimously that they would change from hanging to the lethal chamber.

Mr. HOWDEN: I do not think that is fair to the witness. It is not in evidence.

The CHAIRMAN: That is not in evidence, Mr. Blair.

Mr. BLAIR: I would like to know if they have the opinion of the sheriffs assembled in convention in Quebec.

The WITNESS: I don't think that we have; in fact, not to my knowledge. But as I said before, it is my personal opinion that I am giving. I am not giving the opinion of the sheriff of Quebec or Three Rivers or any other district. I am just giving my own opinion.

Mr. BLAIR: Yes, I see.

Mr. HAMILTON: Is not all we want facts on which we can base an opinion, rather than so much opinion evidence of other people?

The CHAIRMAN: Yes.

Mr. HAMILTON: Might I ask a few questions, Mr. Chairman?

The CHAIRMAN: Yes. It is open to the committee.

*By Mr. Hamilton:*

Q. Mr. Bélanger, the prisoner knows the day he is to be executed?—A. Yes.

Q. But he does not know the hour, does he?—A. He knows it is early in the morning.

Q. That is a standard practice?—A. Yes.

Q. But no definite hour?—A. No.

Q. When is he first informed of the hour of his execution—when they come to take him?—A. Well, maybe a few minutes before.

Q. Maybe a few minutes before. How long is it after he is informed that the execution is to take place, before it does actually take place—a matter of half an hour or what?—A. Oh, I should say ten or fifteen minutes.

Q. From the time that the drop occurs, from your observations how long does he remain conscious?—A. How long does he remain conscious?

Q. Yes?—A. Well, for myself, I do not think he remains conscious at all. I think the minute he reaches the end of the rope, it is finished; because we cannot notice any sign at all.

Q. Where do you see the body after the drop? Where do you see it from—the scaffold?—A. Well, no. In Montreal the scaffold is attached to the building. It is a permanent one.

Q. How can you see the body?—A. In the yard of the jail.

Q. And it is from below the scaffold that you see the body itself?—A. Yes.

Q. What is the mental condition of the prisoner up to the moment of the execution? I suppose that is different with different prisoners?—A. Well, it is. I suppose, a question of temperament. Some are pretty cold and some are pretty shaky, if I may use that expression.

The CHAIRMAN: Perhaps the committee will be interested in finding out what takes place from the time the prisoner is taken from the cell. I think we should have that in the record, what takes place from the time the prisoner is taken from the cell until he is pronounced dead.

Miss MACPHAIL: I would like to know what takes place from the time he is notified.

The CHAIRMAN: Yes, from the time he is notified.

*By Mr. Howden:*

Q. But he knows the date, does he not?—A. He knows the date; and he knows it is early in the morning.

Q. But he does not know the exact hour?—A. Not exactly. But the executions in Montreal always take place around eight o'clock in the morning. There might be a few exceptions, but as a rule it is around eight o'clock.

Q. As Miss Macphail suggests, will you relate to us just what transpires from the time that the prisoner is notified that he is going to be hanged in a few minutes or half an hour and the time when the execution is over?—A. Well, I do not think I am in a position to answer your question—I am very sorry—because the sheriff is not the officer who goes and tells the prisoner that the execution is going to take place.

Q. No?—A. As a rule, it is the warden or governor of the jail.

Q. But you have heard of the reaction on the prisoner in a number of cases. How do they take this information that they are going to be hanged?—A. In most of the cases they take it very good.

Q. Pretty bravely?—A. Yes.

*By Mr. Hyndman:*

Q. At any time have you ever had a prisoner that would step over to the place, that would collapse and not be able to stand up when the noose was placed on him and the black cap placed on him? Have you had them faint or anything of that effect?—A. Not to my knowledge.

Q. In your experience?—A. Not to my knowledge.

Q. In any of your cases?—A. Not in any cases that I have attended.

Q. They have not done anything like that. You generally fortify them in some way to off-set that, do you, if you find a person more or less temperamental?—A. That would be up to the governor of the jail.

Q. Yes. It is a generally known fact that that might be done.

Mr. BERTRAND: The governor of the jail gives him something.

*By Mr. Hyndman:*

Q. It is a well known fact that they give him a stimulant to help him stand while the noose is placed upon him?—A. Yes.

Q. At no time have you seen any prisoner faint at that time?—A. As far as the prisoners go, everyone that I have seen, they stood pretty well?  
[Mr. Oscar Bélanger.]

Q. Stood up?—A. I must add that in Montreal there is only, from the cell to the scaffold, about, I should say, not more than five or six steps.

Mr. HOWDEN: Witness, will you go ahead and relate to us just what happens from the time the prisoner is approached to be taken to his death?

*By the Chairman:*

Q. You say the warden notifies him that he is to be taken to be executed. What happens after that?—A. Well, the warden goes back to his office where the sheriff is and the officers that are bound by duty to attend him; and we go to the cell. The executioner handles the job.

*By Mr. Howden:*

Q. When he comes out of the cell?—A. When he comes out of the cell, he walks him on the scaffold. It is only a few steps; I do not think that it is more than six steps he has got to make. They tie his feet, put a black cap on his head, which is done very, very quickly.

*By the Chairman:*

Q. Is there any spiritual adviser there? —A. Yes, up to the very last minute.

Mr. HOWDEN: What is that, Mr. Chairman?

The CHAIRMAN: I asked him if there was a spiritual adviser there at the time this was done.

The WITNESS: Yes. The spiritual adviser stays on the scaffold till the very last, till it drops.

*By Mr. Howden:*

Q. But still you do not know the amount of time allowed? —A. No.

Q. —for spiritual advice? —A. No.

Q. —after he leaves the cell? —A. No. Most of the time the executioner does not seem to mind what is going on.

Q. He goes about his business? —A. He just goes about his business; and half of the time these men go down when they have just maybe decided to pray or have not said half of the prayer. When the executioner is ready to let go the trap, he lets it go, and it is done very quickly.

Q. There is no pause after he is ready; the trap is sprung immediately? —A. I beg your pardon?

Q. There is no delay? —A. No delay—no, no, no.

Q. After the prisoner is prepared for execution, the trap is sprung immediately? —A. Sure. He has only to press a button and the trap goes down.

*By Mr. Bertrand:*

Q. Have you witnessed any hangings in the country? —A. One, in Campbell's Bay. I presided over it myself. The sheriff of the district could not attend for one reason or another, so I was delegated by the Department of the Attorney General to preside over it.

*By Mr. Plaxton:*

Q. Was that execution carried out efficiently? —A. Very.

*By Mr. Bertrand:*

Q. In your experience, how long did it take for the execution that took the longest time, between the time he left the cell until the trap went down? —A. Well, I could not say exactly.

Q. No, but according to your calculation? —A. I do not think it is more than maybe two minutes.

Q. No; from the time that the prisoner leaves his cell? —A. Yes, and walks out.

Q. —until the time the trap was sprung?—A. Yes.

Q. How long did it take, the time that it took the longest, in your experience?—A. I do not think it would go over four minutes.

*By Mr. Howden:*

Q. Do they always drop the same distance?—A. No. It is according to their weight.

Q. In the case of this woman with whom they had the accident, was she a very heavy woman?—A. Yes, very heavy.

Q. She was very heavy?—A. She was very, very heavy.

Q. They let her drop too far?—A. This would be better explained by a doctor than by myself. I think it was on account of the fat on her neck; but I would not go into any detail of that because it is more pertaining to a doctor than myself to explain it. It was a very unfortunate accident; and I must say that it was very unfortunate for those who had to see it, more than for the woman; because I am still under the impression that she did not suffer any more than any of the two others who were hanged at the same time.

*By Mr. Hamilton:*

Q. Is it always the same executioner?—A. Well, it has been, up to—

Q. Well, I mean while he is doing that work, it is always the same one?—A. Oh, yes.

*By Mr. Blair:*

Q. Did that woman's friends see her after her head was pulled off?—A. That I could not say. I did not remain at the jail. The sheriff's office is pretty far from the jail in Montreal.

*By Mr. Sinclair:*

Q. This is a very gruesome detail. How many experiences of this have you had?—A. What do you mean?

Q. The same as this woman in Montreal?—A. Only the one.

Q. That is the only one?—A. Yes.

*By Mr. Plaxton:*

Q. Is the equipment or scaffold used of a standard variety throughout the province, to your knowledge?—A. In Montreal we have a permanent one.

Q. I understand that. But what about outside?—A. For the outside districts, we have a scaffold in Montreal which is sent by express to the different rural districts. It is always the same one.

*By Mr. Howden:*

Q. I have just one single question to ask further. You do understand that death undoubtedly is produced by the dislocation of the first two vertebrae. They are dislocated, and the pressure of the second vertebrae on the spinal chord is what brings about insensibility. There is no question about that at all. That is definite. Have you seen a case of hanging where the typical death did not take place but where the patient apparently was strangled?—A. Well, I have always had to rely on what a doctor says.

Q. Let me put it this way: If a patient were strangled to death instead of being killed by the regular drop, he would become terribly cyanosed, suffused—would become very blue, the eyes staring and the lips swelled and dilated. Have you ever seen a case of that kind?—A. No. For the good reason that I never see them after.

Q. Oh, you never see them after. Well, you see them hanging?—A. Yes.

[Mr. Oscar Bélanger.]

Q. That would be apparent right away after the drop?—A. Oh, yes. But they have a black cap on. I do not see their faces at all. When they take them to the room for the autopsy, the sheriff does not go there. I think our duty is bad enough to attend the hanging, without going and attending the autopsy.

Q. Will you answer me this question: When they are taken for the autopsy, do you ever see the corpse?—A. No, sir.

Mr. HOWDEN: Then, that settles that.

*By Mr. Bertrand:*

Q. Have you seen, in your experience, some that were fainting?—A. Not at all. I said that before.

The CHAIRMAN: Before you came in Mr. Bertrand. Are there any further questions? If not, the witness will be excused.

Witness excused.

Mr. CLARKE: I think if we could have the coroner or doctor who has been present at these 30 hangings, it would be helpful.

The CHAIRMAN: Yes. I think he said Dr. Benoit is the doctor.

Mr. CLARKE: I think he would be able to give very good evidence.

The CHAIRMAN: We will consider it.

Mr. HOWDEN: I would like to suggest a vote of thanks to the gentleman who has just given evidence.

Mr. BLAIR: I would second that.

The CHAIRMAN: I think that is the consensus of opinion. Mr. Belanger, we want to thank you for your attendance here and the evidence you have given.

Mr. BELANGER: I wish to thank you myself, and I have a little request to make. If I murdered the King's English in giving my evidence, I hope you will not resort either to the scaffold or to the gas chamber.

The CHAIRMAN: All right. Mr. Gallagher is the next witness.

M. F. GALLAGHER, called.

*By the Chairman:*

Q. You are acquainted with the reference, are you, Mr. Gallagher? Bill No. 6?—A. Yes, I am.

Q. What is your position in the Department of Justice?—A. Senior advisory counsel and chief of the Remission Service.

Q. How long have you been with the department?—A. Twenty years, approximately.

Q. I think it would be better if you would first of all outline to the committee the general aspects of capital case work, from the time that the department is notified that a man has been sentenced for murder until the execution is carried out or the penalty has been commuted, and any general observations you might have that would be helpful to the committee.—A. Is that from the standpoint of such leniency as may now be granted to a murderer, or just general procedure?

The CHAIRMAN: Can the committee hear?

Some Hon. MEMBERS: No, not very well.

Mr. HYNDMAN: Speak to Mr. Plaxton down there, and then we will all be able to hear you, Mr. Gallagher.

The WITNESS: I hope he will be a sympathetic listener. The proceedings are taken in shorthand, at every trial for murder, and they are transcribed and transmitted to the Secretary of State and referred to the Minister of Justice for study and consideration. In all capital cases, there is an investigation conducted by the officers of the department, after the receipt of the official

reports, principally that from the trial judge who outlines the salient features of the case. The investigation in some instances is quite simple; in others it is quite complex. I don't know just what you are interested in.

Mr. HOWDEN: What is the object of the investigation?

The CHAIRMAN: Yes. That is what I was going to ask.

The WITNESS: It is to collect all data which may have a bearing upon the question of commutation of the death sentence.

*By Mr. Chairman:*

Q. Right there, what happens—I am embarrassed myself—if the jury recommends clemency?—A. Well, in a case in which the jury—it is not the usual procedure—recommends clemency, one usually finds a set of circumstances which is appreciated in the same light by the trial judge, and also by the officials of the department, the Minister of Justice and the Privy Council. It is very rare that a recommendation is made by a jury which is not based upon facts which appeal equally to the sense of justice and mercy of the authorities who have subsequently to consider the case.

Mr. HOWDEN: Excuse me, Mr. Chairman, but I think we are way off our order of reference. What we are supposed to inquire into is the relative merits or demerits of hanging and of lethal gas. I cannot see any connection between that and the testimony we are getting at the present time. I think we are wasting Mr. Gallagher's time and ours, too.

The CHAIRMAN: Well, whatever the committee wish, we will do.

Mr. HOWDEN: May I say to Mr. Gallagher, Mr. Chairman, that what we want to know, and what we are endeavouring to find out, is whether destruction by lethal gas is a more merciful way of putting criminals away who are condemned to death than hanging; and, if so, whether the effect on the public is equally potent, let us say, or equally impressive. I would not think it would be in your line to testify as to that. But, if so, that is what we really want to hear.

The WITNESS: Well, your observations follow two different lines. On the first, I agree. I have no technical information to offer you. In fact, I understand that there is a good deal of conflict as to whether death by way of the lethal chamber is the more humane of the two methods of execution.

Mr. HOWDEN: Quite.

The WITNESS: But admitting for the sake of argument that it is, you may be interested to know just what the deterrent effect of the present system is considered to be.

Mr. HOWDEN: Yes, undoubtedly.

Mr. BLAIR: In different countries.

The CHAIRMAN: That is what we were working up to, I thought.

The WITNESS: I have endeavoured to collect statistics which, when placed before you, would enable you to reach your own conclusions. I wish to submit some, but I find it very difficult to find data which may absolutely satisfy a scientific mind. The conditions vary so considerably from country to country that one must take into account a very large number of factors to interpret, or in order not to misinterpret, the statistics as we have them. In some countries the relevant statistics, I must say, are very scanty. Here are some of the figures bearing upon the issue. In Canada we have what may be considered, comparatively speaking, as a low rate of murder. Our capital cases here indicate a rate of 1 to 500,000 of population, which compares, I might say, very favourably with other countries. The United States—or shall I go into that?

[Mr. M. F. Gallagher.]

Mr. HOWDEN: Yes, yes.

*By Mr. Plaxton:*

Q. Is that a per annum rate, Mr. Gallagher?—A. Yes. The recent figures compiled up to 1935 give the murders in United States as 6,849 or a rate of 5·37 per 100,000 of population, which compares with ours of, throughout the years almost invariably, a half of one per cent. It might only be fair to say that in the United States at the present time reports indicate that there is a decrease in crime due to the activities of the G men. I could go on and give you figures to establish that there is a great deal—

*By Miss Macphail:*

Q. Have you the figures for England—Great Britain?—A. Well, Great Britain has an average which we can only envy. There is hardly one man out of ten who escapes arrest—if you will allow me just a moment, I shall give you precise data.

*By Mr. Blair:*

Q. Have you the per cent of the different states in the United States? A. In Great Britain where capital punishment is rigidly applied, only one person in 634,000 commits murder. In the United States where seven states have no capital punishment, where the death penalty even in hanging states is very loosely applied, one person in every 12,000 commits murder. That is fifty times more than in Great Britain.

*By Mr. Plaxton:*

Q. Those are in hanging states?—A. In the United States.

Q. You are speaking of a certain group of States?—A. No, of the American Union.

Q. Oh, I am sorry?—A. In which seven states have no capital punishment.

*By Miss Macphail:*

Q. Are you attributing the difference in figures to that fact, that seven states have no capital punishment?—A. No, the figures cover the whole Union.

*By Mr. Hamilton:*

Q. Have you any comparison with the states that have no capital punishment?—A. Yes. Of course, that may lead us very far. You may not have to question me on this score if I may be allowed immediately to observe that the factor of punishment or the type of penalty, is only one of several which I believe contribute to the low rate of murder in this country.

MISS MACPHAIL: I thought it would be interesting for the committee to know what do you think contributes to the low rate.

MR. BLAIR: Yes.

MISS MACPHAIL: It would be interesting to me, anyway.

THE WITNESS: A great deal of credit, I think is due here to the strong administration of justice in every Canadian province, to the excellent reputation for efficiency which our Canadian police have earned for themselves, and to our judicial system, which is well known for its justice, swift and sure. I think the certainty of arrest and punishment—

*By Mr. Blair:*

Q. Are the deterrents?—A. —have a deterrent effect, yes; a very, very great one.

*By Mr. Hamilton:*

Q. Would promptness have something to do with it?—A. Undoubtedly I think we should be thankful for the general attitude of the people of this country

which is opposed to crime. It might also be conceded that our press, as a rule, have adopted an attitude which has been very helpful in the repression of crime. For instance, you find no hero worship of gunmen in this country. There are so many factors which contribute to bring about the low rate of capital crime that I would hesitate to ascribe to the death penalty, as we have it, too much credit for all which has been achieved. How can one weigh exactly the importance of each factor? I think it is almost impossible. However, I believe that in this country it is a generally accepted truth that the death penalty has a deterrent effect which is still essential to safeguard the sanctity of human life.

*By Miss Macphail:*

Q. Do you mean the death penalty or the method of the death penalty?—A. The death penalty. Now, as to the method—and I understand that is what you are principally interested in at this moment—there are certain considerations which I might usefully place before you. A change to something more lenient could hardly operate as a stronger deterrent.

*By Mr. Hamilton:*

Q. What do you mean by lenient?—A. Well, we are taking it for granted that the lethal chamber is somewhat more humane, and something which the criminal would prefer to hanging—to what he calls "the rope." There is a tradition attached to the present method. It is well known in the criminal world, and it is known as something absolutely to be avoided, if possible. There is not only the conception they have of what actual hanging may be and probably is, but there is the ignominy attached to it. It is part of a very long and thorough education.

Mr. HOWDEN: Quite.

The WITNESS: The present mode is something I think we should hesitate to discard without being thoroughly convinced that by changing it we would be making a step forward in the right direction.

*By Miss Macphail:*

Q. You are not suggesting, are you, Mr. Gallagher, that people would be crowding into the lethal chamber?—A. No, not quite.

Q. Is not death the deterrent?—A. Death is the real deterrent, no doubt.

*By Mr. Howden:*

Q. You mean there is a stigma to hanging?—A. Yes, undoubtedly.

*By Miss Macphail:*

Q. The black cap?—A. Yes.

*By Mr. Plaxton:*

Q. Have you discussed this with any criminals?—A. Difficult as the task may have been, I have.

Q. And you have discussed, I presume?—A. On many occasions.

Q. —the virtues of hanging as opposed to lethal gas?—A. No, not exactly. But I have discussed with them the virtues of the electric chair, which you will probably agree is considered to be somewhere between hanging and the lethal chamber. It is another mode, at all events, which was considered by them as something less repugnant.

*By Mr. Blair:*

Q. Mr. Gallagher, if you increased the punishment, would it have a greater deterrent effect?—A. Well, I would certainly hesitate to increase the present punishment or its horror to the prisoner—or let us say the suffering for the

[Mr. M. F. Gallagher.]

prisoner and his family which results from hanging. Maybe I have not understood your question.

Q. You said to lessen the punishment would lessen the deterrent effect. If you increased the punishment, would you increase the deterrent effect?

The CHAIRMAN: That is a general principle of law. Surely we cannot increase the punishment beyond hanging.

Mr. HAMILTON: It is a thing that has been bothering me, Mr. Chairman. If the present method of hanging, or the degree to which it is inhumane, is beneficial as against a less degree of inhumanity with the lethal chamber—

Mr. BLAIR: That is the idea.

Mr. HAMILTON: —then, if we still more lessen the inhumanity in the hanging method, would it be a greater deterrent?

*By Mr. Hamilton:*

Q. Do you see what I mean, Mr. Gallagher. Down through the ages we have been, I think, making less and less inhumane our method of executing criminals?—A. Yes.

Q. In the old days they had to have it much more repulsive and much more horrible than it is to-day?—A. Yes.

Q. We have been travelling along a road of more humaneness. Have we reached the proper point to stop or are we still going along the road to a greater degree of humanity?—A. Oh, I think we should aim to still continue cautiously along the path which we have trodden very slowly in the last few centuries.

Q. You would not stop with the deterrent effect that the present degree of horror gives to it?—A. These changes, I think, have come about with the consensus of public opinion in all countries. It naturally follows that our criminal laws answer the need of the day as understood by the people, especially under a democratic form of government. Now, that probably brings us to the very point of whether this change appears to be asked for, requested, prayed for. As a rule, all trends of public opinion in matters of this kind are reflected in the correspondence—the unsolicited correspondence—of the department. I must say that, regarding this proposed change, any representations we have seen or heard of are almost violently opposed to the change.

Q. That has not been the case in the past, I guess?—A. Of course, conditions vary, sometimes, quite rapidly. Just at present, if there is a decrease in crime in the United States where the population is so many times greater than ours, if conditions are becoming decidedly unpleasant for the criminal over there, it may enter his head to disregard the frontiers and come to operate over here. At this particular time, would it be wise to lessen in any degree, the punishment for crime? I doubt it.

*By Mr. Plaxton:*

Q. Can you express an opinion on this question, having regard to your contact with many of the criminals: When they have committed a crime, are they thinking at that moment of the punishment that may result?—A. I could convince the most doubting Thomas, I believe, that the criminals we have to deal with, those who are executed are as a rule very bad men indeed. I probably should have explained before that nearly half of those condemned to die have their death sentences commuted. But those who are executed are of a type, probably the worst in all humanity, if we may pass such a judgment. This is evident from their past activities, their criminal records. I have a whole list of them here. Their previous convictions run from 5 to over 20. They are principally men who are engaged in robbery with violence—the vast majority of them. They are the gangster type. More than half of them are not born in Canada. I think the mere statement is sufficient for you to allow full apprecia-

tion of all the implications. Do they think of the consequences? I would say they do, when they are preparing their crimes. They get away with a certain number, I am sorry to have to admit; but the getting away with one or two encourages them to believe that they can beat the law, until finally and fortunately they are trapped.

*By the Chairman:*

Q. Mr. Gallagher, are those who are executed really inherently bad—vicious?—A. Yes, decidedly so.

Q. They are not those who might have been the victims of circumstances?—A. Have you any particular type in mind? No, they are not. They are usually those we would classify as the confirmed criminal.

Q. That is to say, a person might, in a burst of quasi-insanity, commit a murder. In his case, when the case comes down here, the sentence may be commuted to life imprisonment?—A. That is taken care of by way of the Royal Prerogative.

Q. The men who are hanged are those who are inherently bad and vicious?—A. Absolutely, as a rule.

Mr. HOWDEN: Yes, but not exclusively so. There are others hanged.

The WITNESS: No, not exclusively so. But it is generally true.

The CHAIRMAN: I was asking his opinion on it.

*By Mr. Howden:*

Q. Would you care to venture an opinion—because that is really what we are after—as to, let us say, the comparative cruelty, if we use that word, or the comparative merits or demerits of hanging and lethal gas execution?—A. Well, regarding the present mode of execution, I could only relate the information that I have received throughout the years from people who have attended executions; whose duty it was to do so.

Q. Quite.—A. For instance, I have in mind a doctor in Montreal who, I believe, has never missed an execution in the last twenty-five years.

Miss MACPHAIL: Is his name Benoit?

The WITNESS: Not that he wished to, but he had to.

*By Mr. Howden:*

Q. Is that Dr. Benoit?—A. No; Dr. Plouffe.

Q. Dr. Plouffe?—A. Yes. I do not know that we should bring his name in.

Q. The reason I ask it is that a name was mentioned previously.—A. In his opinion, unconsciousness is almost instantaneous in hanging.

Q. Yes, quite.—A. If that is what you want. Now, regarding the new method, I must admit that I have no personal or technical knowledge to offer you.

*By Miss Macphail:*

Q. Do you think, Mr. Gallagher, that it is the black cap, the hands being tied, and the other indignities, that are the deterrents in hanging? I understood you to infer that you think it is a deterrent, hanging; that is, as a method. I would like you to make clear to us how you think hanging is a greater deterrent than some other method of taking a criminal's life for his crime. Is it the indignities like the tying of the hands, the black cap and the springing of the trap, or what is it about hanging?—A. Well, from time to time, one hears, in this particular field, of the rope, the 13 steps to climb, and details which are connected with the ceremonial. But away down deep, in discussing occasionally these matters with those who had to face the ordeal, it appeared to me that what they call "the drop" was what they abhorred the most.

[Mr. M. F. Gallagher.]

*By Mr. Blair:*

Q. In your department, have you found many cases where death did not take place for from 8 to 20 minutes, and in some cases 25 minutes?—A. In our department we are not directly concerned with the actual carrying out of the death penalty.

Q. Have you any reports to that effect?—A. That death would have taken that long?

Q. Yes?—A. Well, we have the pronouncements of the jury.

Q. That is what I mean.—A. That life appeared extinct—

Q. Yes?—A. That is when the body has become—

*By Mr. Howden:*

Q. Pulseless?—A. Pulseless.

Q. When the body is pulseless, then life is extinct. You can depend upon that?—A. Yes.

Q. Just a question along that line, you had an opportunity of discussing that matter with him. Did he give you any intimation as to the average length of time it takes before the pulse is extinct?—A. Yes; I would say the average is about six minutes.

*By Mr. Hamilton:*

Q. You have already said that unconsciousness was almost instantaneous?—A. Yes.

Mr. O'NEILL: It seems to me, if death by hanging is almost instantaneous, that you could not get a more humane method of carrying out the death penalty. There is a certain amount of preparation in any event. The man must walk to the lethal chamber, if that method is used, he must walk to the electric chair, if that method is used, and he must walk to the scaffold if hanging is used. There is a certain amount of preparation in each case, and only two or three minutes in the case of hanging. By hanging death is instantaneous when the body reaches the end of the rope. If death is instantaneous I do not know how you could make it very much more humane.

The CHAIRMAN: Is there any difference of opinion among the doctor members of the committee as to whether death is instantaneous?

Mr. HOWDEN: Death is not instantaneous, but consciousness is abolished, and when consciousness is abolished, what is the difference.

Mr. O'NEILL: It is consciousness we are interested in.

The CHAIRMAN: Are there any further questions?

Miss MACPHAIL: I do not know whether you would call it a question or not, but I should like to say we are becoming more interested in prisoners from a humanitarian point of view, but not particularly this type of prisoner. The prisoners we are now discussing are prisoners who have admittedly become worse and worse. They have worsened, at any rate. I should like Mr. Gallagher, who must have handled many cases in his experience, to answer this question, if he feels like it: Do you think that there is a point at which humanity could save these men from any form of death, whether by hanging or otherwise. Is there a point at which we can save these men?

The WITNESS: That brings us, of course, face to face with the whole problem of reform. Now, I would say it would be infinitely preferable to begin at the other end of the line, leave the real bad man who is convicted of murder after a fair trial to his doom, and devote our attention and study and our sympathy—

Miss MACPHAIL: And our science.

The WITNESS: Yes.—to the young, the youthful offender. He is the only hope in this field.

The CHAIRMAN: That was my idea in endeavouring to get an opinion from Mr. Gallagher.

*By Miss Macphail:*

Q. Is there hope?—A. Oh, absolutely, and now I presume more than ever. I am afraid I may be going afield, but surely there is here the widest scope for religious and civil authorities to get together and do something really worth while.

Q. Authorities never do anything, not until they must, anyway.—A. They might be glad to take the youthful offender and teach him whatever might help to save him.

*By Mr. Hamilton:*

Q. Before they committed a crime?—A. Yes, or at least before they became criminals. The youthful offender may not be—I dare say in the majority of cases he is not—in any sense a criminal. There is every hope of saving him, and incidentally protecting society, if we can get hold of him in time.

*By Mr. Blair:*

Q. Mr. Gallagher, in your commutations, in the first ten years from 1916 on you said about half of them were commuted, in the next ten years 33 per cent were commuted. How do you account for the great variation in the last ten years as compared with the previous ten years? Was it the war, or did you make these commutations based on the mental attitude of the prisoner?—A. The reason for commutations, is that what you want?

Q. Yes, the reasons.—A. They vary according to the circumstances of the individual cases. In one instance commutation may be probably based upon the extreme youth of the lad; in another case, as you mentioned, it may be a degree of impaired mentality, which does not amount to the statutory requirement, or inability to appreciate the difference between right and wrong.

Q. In your department and Great Britain they do not have so many commutations as in Germany and France. Why the variation?—A. Well, these are matters I presume of their own jurisdiction.

Q. No; but I was wondering about the variation in this country and the comparison with the old country.—A. I thought you said France.

Q. So I did. France only put to death by the guillotine one out of thirty sentenced for a number of years.—A. Yes; they did not, I understand, lower their murder rate, on the contrary—

*By Mr. Plaxton:*

Q. What evidence is there of that?—A. I think you will find in the last inquiry in 1930 before the select committee of the British parliament—

Mr. BLAIR: What were you going to say?

Miss MACPHAIL: I have a question I should like to ask Mr. Gallagher. I should like to know why we put persons to death. Is it entirely for the protection of society, and if it is why do we not put to death the criminally insane?

The WITNESS: Well, I have had occasion to look into that matter. In all these years there have been a great number of cases in which the degree of impaired mentality of the condemned man had to be studied and weighed by alienists—

*By Miss Macphail:*

Q. I know.—A. And many, or at least several, eminent alienists would consider it the humane thing to do.

Q. Yes, but why is it the humane thing to leave a man alive who is infinitely more dangerous to society as a whole than a criminal whose mentality is not

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impaired?—A. Do you say it is the humane thing to keep alive the insane individual?

Q. No, I do not say it is humane; I say it is more dangerous to keep alive the criminally insane than it is the man who is not criminally insane. What I cannot understand is why are there more criminally insane people left living from an apparently humanitarian point of view—that is not my view; I am talking about the general view. What I can't understand is, if we are going to protect society, why do we not execute the criminally insane. They are of no use to themselves and they are of no use to society. As a matter of fact they are dangerous.—A. Well, I think the main distinction would be drawn from the malicious and criminal intent which motivates the criminal who commits the capital crime—

Q. That is what I want to get.—A. There is something deliberately malicious in murder.

Q. Yes.—A. And the offender's punishment serves as a deterrent. Now in the case of the insane person his predicament is not the result of his own act or volition and therefore invites every sympathy.

Q. Yes, but that won't help his next victim.—A. That would be an accident, really, rather than a deliberate act.

Q. An accident which could be avoided if he were executed.—A. In order to protect society and to protect him this unfortunate individual is kept apart.

Q. Not always successfully.—A. Oh, well, human institutions unfortunately have a percentage of imperfection.

*By Mr. Blair:*

Q. Fifty per cent, almost, of the commutations given to these people are given because of their mensrea, their mental deficiency, in many cases?—A. In considering the advisability of commutation I dare say the question of impaired mentality enters into about 35 per cent of the cases.

Mr. HOWDEN: I was going to ask a question which is outside the reference, Mr. Chairman. It will only take a moment. Mr. Gallagher mentioned the deterrent effect with regard to different countries. The hero-worship of the American press undoubtedly stimulates a condition which leads to crime. There is no doubt about that. We have a much more sane attitude on the part of the press in this country, and still a much saner attitude on the part of the press in England, where they have the best record. I was going to ask the witness if there is any means by which the press can be controlled in the matter of reporting the details—

The WITNESS: Of the commission of crime?

Mr. HOWDEN: Criminal murder, exactly.

The WITNESS: That is really a question for parliament to decide.

Mr. HOWDEN: It is an important matter. It is something that parliament should have taken cognizance of long ago.

Mr. PLAXTON: Let us raise it.

The WITNESS I would hesitate to answer that question, without giving it more mature consideration. Offhand, I would hesitate to muzzle the press. They have done excellent work, I think, in support of law and order in this country, so far. One might desire that they should inform the criminal world, because criminals also read the press, of executions. They do not need to go into the harrowing details, but at least criminals should know when executions occur. The press gives great prominence, as you say, to the commission of the crime and very little to the fact that the criminal is punished. I believe that this is inadvertent on their part, and if it were drawn to their attention probably they would take care of it.

*By Mr. Plaxton:*

Q. I have just one question, Mr. Chairman. How would you describe in a general way the mental condition of those criminals who have been condemned to death with whom you have discussed the matter of execution?—A. The border-line cases of insanity?

Q. No, in a general way what is the mental condition or capabilities of those criminals who have been condemned to death and with whom you have discussed the mode of execution?—A. As a rule they are far above the average. I would rate many of them as clever. I think you will all share that view if I may be allowed to give you a few illustrations.

The CHAIRMAN: Yes, I wish you would.

The WITNESS: Here is a chap who had eleven previous convictions, one of the modest ones. He started out by being sentenced for counterfeiting. Incidentally he started his career in the United States.

*By Mr. Plaxton:*

Q. Is this a criminal?—A. A man who has been hanged. The year following his first conviction he is again charged but acquitted. Two years later he is convicted of theft. He serves a period in the penitentiary and two years later he is again before the courts on attempted larceny. I mention the crimes as an indication of his versatility.

Mr. HOWDEN: Progressive criminality?

The WITNESS: Yes. Then, there are other activities, not altogether criminal, referred to. He escapes from jail and then he poses as an officer. I do not wish to say anything which would allow the man to be recognized but I wish at the same time to allow you to draw your own conclusion. Mine is that he is far above the average in intelligence. He is next found in rum-running and then later on he is convicted of impersonating a commander. Now, during all this time he succeeds in passing bad cheques, one for nearly \$5,000.

Miss MACPHAIL: Big business.

The WITNESS: Yes; there is nothing small about him. Until finally he forgets himself and goes on one of those expeditions with a woman and a gun is used and he is convicted of murder.

Mr. HOWDEN: Beware of the women.

Miss MACPHAIL: And the guns.

The WITNESS: They are, as a rule, as most of them are engaged in robbery with violence, above the ordinary type of criminal in intelligence.

*By Mr. Blair:*

Q. While you might say that, would you not say that their brain was unbalanced in some way, because many of the people in the asylums are more intelligent than we are in many ways.—A. The brain, no, but I think their heart certainly was not in the right place.

Q. Not the heart.—A. I am speaking the language which everybody will understand. They are vicious.

Mr. PLAXTON: Mr. Chairman, I do not subscribe to Dr. Blair's statement.

Mr. BLAIR: Mr. Chairman, I am speaking for myself, after long experience in this house. I do not think it is fair to say that they are more intelligent in one way. Their brains lack balance.

Mr. HOWDEN: I think we are getting away from the reference.

The WITNESS: I would certainly hesitate to concur in that view. I believe that these criminals know the consequence of their acts and appreciate them far

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more readily than the ordinary individual. I have never known any of them to lack in judgment or in rapid and accurate decision. I may assure you, they can take care of themselves very, very nicely in any complex set of circumstances. Of course, there is, I admit, the type of man whose mental faculties appear to be working quite normally, and in whom there is a difficulty in the association of ideas under certain stress. The faculty of judgment, according to the experts, is the one that fails to function in cases like that.

Mr. BLAIR: You are saying in another way that there is a defect in the secretions of the internal glands, which drives them to various impulses that they cannot control.

*By the Chairman:*

Q. Mr. Gallagher, you are an even tempered man who has twenty years experience in dealing with condemned men. From your knowledge of those who have paid the supreme penalty, are you in a position to state whether or not you think there should be any variation in the carrying out of the death penalty or is the criminal who is eventually hanged or to be hanged entitled to lenience?—A. Well, of course hanging is designed to operate in the mind of the potential murderer as a deterrent. Would the method proposed answer the purpose as well? I would say No.

Mr. HOWDEN: That is an opinion.

*By Mr. Plaxton:*

Q. Could you give, briefly, your reasons? Could you condense them into three or four points?—A. The results of the present system, one might say; the comparatively low rate of murder in this country; conditions which call for every deterrent possible; the absence of any convincing argument in favour of a different method of execution; the natural hesitancy to adopt something new when what we have appears to answer the purpose; the natural inclination to leave well enough alone. Those are some of the principal considerations which occur to my mind off-hand.

*By Mr. Howden:*

Q. And the stigma of hanging?—A. Yes. We have referred to that.

*By Mr. Hamilton:*

Q. Is there not a certain type of criminal for whom the element of physical pain carries with it a much greater deterrent effect than the stigma or ignominy or anything of that nature?—A. I would say that nearly everyone of them is in that category.

*By Miss Macphail:*

Q. In the case last cited by Mr. Gallagher, in which he showed a man that he says he thinks was above the average mentality—and he certainly committed a great variety of crimes that took great skill—that man did commit a murder. Does Mr. Gallagher think that there was any point in his accumulating crimes where the thought of hanging occurred as a reason why he would not commit the crime? And if that were so, does it not follow that, with a man of that intelligence, hanging as a deterrent does not operate? Or do you rather think that he did not think of it at all, and that he finally became a murderer through the accumulation of crimes and the deadening of conscience; that the weight or the accumulation finally led him to take the life of another? In your opinion, in that particular case, do you think that the method of death played any part, or was it rather the life, the thoughts, the actions, the accumulated crimes of that man that finally brought him to the last and worst?—A. I would say that his whole life ended—in the result to be expected.

Q. So would I. But do you think that the thought that his life had to be given for the life that he took, or the method by which he was to be executed, at

any time entered into the calculations of that individual?—A. Yes. I think that all along he studiously avoided, and quite successfully in many instances, being caught. He certainly was one of the men who least relished the ordeal facing him.

Q. Of hanging or of death?—A. Of hanging.

*By the Chairman:*

Q. From your knowledge and your records, are those who commit robbery—that is, the clever ones—those who have guns or who use guns?—A. The clever ones make it a point, they boast of knowing enough to leave their guns or at least their ammunition out of it. They may use a gun to flash. But the clever gangster will give orders to all those who accompany him to avoid carrying weapons or what they call “the rod.”

The CHAIRMAN: Are there any further questions?

Mr. HOWDEN: Mr. Chairman, I have none with regard to Mr. Gallagher; but it seems to me that this is a very serious and important investigation. I think that our chairman should take some steps to insure a better attendance at our meetings. I do not think this matter should be left in the hands of a very few. It is an important matter.

The CHAIRMAN: Well, a week ago, when we set this date—and I set this date with the clerk—no other committees were on the record for this day. There is no way of controlling other committees coming together on the same day; and if there are members of our committee who are more interested in the other committees, what can you do?

Miss MACPHAIL: You cannot do anything except try to avoid so many committees on one day.

The CHAIRMAN: I think the clerk will bear me out that we were the first to select this day. We did not select last Thursday because there were other committees called; so we selected to-day, and we were the only committee on record at the time.

Mr. PLAXTON: If I might interject for a moment, I would like to move a vote of thanks on behalf of the committee to Mr. Gallagher.

Mr. HAMILTON: I second that.

The CHAIRMAN: I think that expresses the wishes of the committee. I have very much pleasure in tendering to you, Mr. Gallagher, the thanks of the committee for your attendance, and for the information which you gave the committee this morning.

Mr. HOWDEN: I was going to suggest if you approached the whips and indicated to them what you wanted—I know one of the whips is here—it might help. This is a very serious matter, and the responsibility should not be placed on the shoulders of two or three out of a committee of twenty.

The CHAIRMAN: Yes. Will you leave the calling of the next meeting to me?

Mr. HOWDEN: Leave it to the chairman.

The CHAIRMAN: I will see the whips and try to insure a full meeting. I think we had better leave the calling of further evidence until we have that, until we get a full attendance here, or at least a quorum. We have not even got a quorum now.

Mr. HOWDEN: How are you going to work that? You will get an attendance without a witness, and a witness without attendance?

Miss MACPHAIL: Yes. I think you will have to make arrangements for the witnesses.

The CHAIRMAN: What is the wish of the committee?

[Mr. M. F. Gallagher.]

Mr. HAMILTON: What I would like to hear is some medical man who can tell us exactly the extent to which there is suffering and so forth in the hanging execution.

Mr. HOWDEN: Hear, hear.

Miss MACPHAIL: Why do you not bring one of those doctors from Montreal?

Mr. HAMILTON: That is what I think would be a good idea.

The CHAIRMAN: There is one doctor who writes in—Dr. C. J. Hamilton of Cornwall.

Mr. CASSELMAN: That is the old doctor who used to be a member of the house. He is a man 85 years of age.

Miss MACPHAIL: Why not have one of those men who attended these executions that were referred to this morning?

Mr. HAMILTON: Mr. Gallagher mentioned a doctor who attended a lot. So did Mr. Bélanger.

The CHAIRMAN: Has Mr. Gallagher gone?

Mr. GALLAGHER: Not yet.

*By the Chairman:*

Q. Mr. Gallagher, what doctor was it you suggested we might get?—A. Dr. Plouffe.

Q. Is that the same doctor you referred to?—A. He is in charge of the criminal insane asylum at Bordeaux, Montreal.

Mr. BÉLANGER: He is in charge of what we call the criminal insane part of Bordeaux jail; and being there, he attends practically all executions. The reason I mentioned Dr. Benoit was because Dr. Benoit is the doctor at the jail—the jail doctor who attends also executions.

*By the Chairman:*

Q. Dr. Plouffe is the man to whom you referred?—A. Yes.

*By Mr. Plaxton:*

Q. Is he an alienist?—A. Yes. He is director of the criminal insane asylum.

Q. Then he would be an expert?—A. Yes.

Mr. BLAIR: Could we get one from Toronto or Kingston as well?

The CHAIRMAN: What is the wish of the committee?

The WITNESS: There are not many doctors who attend executions, as a rule I mean, throughout the years. I don't know any others.

*By Mr. Howden:*

Q. He evidently has knowledge—definite, personal knowledge?—A. Yes, through his association with criminals and so forth, and he is right there at Bordeaux.

Q. He would be a good man?—A. He is at Bordeaux. His offices are in the same building where the executions take place.

*By Mr. Hamilton:*

Q. Is there any particular doctor in Toronto who has attended many, that you know of?—A. Well, we could find out.

Miss MACPHAIL: There is no penitentiary in Toronto, is there?

Mr. HAMILTON: No.

The WITNESS: No. I don't know of any.

Mr. HOWDEN: I am still disposed to hang out for one who has witnessed both forms of execution, if possible.

Mr. BLAIR: That would be better.

Mr. HOWDEN: But I have heard that Dr. Plouffe is a man who takes a scientific interest in mental conditions and in this form of execution; and certainly his testimony would be very interesting.

The CHAIRMAN: What is the wish of the committee?

Mr. HOWDEN: I move that Dr. Plouffe be requested to attend before this committee.

Miss MACPHAIL: I second that.

The CHAIRMAN: What is the pleasure of the committee?

Motion agreed to.

The CHAIRMAN: Shall the next meeting be left to the discretion of the Chair?

Mr. HOWDEN: Yes, to make arrangements.

The CHAIRMAN: All right. I will undertake to see the whips, but not to insure a full attendance.

Mr. HOWDEN: No. You can whisper in their ear—that sort of thing.

The CHAIRMAN: Yes.

The committee adjourned at 12.55 p.m., to meet at the call of the Chair.













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Canada Criminal Code  
in English and French

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SESSION 1937

HOUSE OF COMMONS

-37C61



SPECIAL COMMITTEE

ON THE

# CRIMINAL CODE

(Death Penalty)

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MINUTES OF PROCEEDINGS AND EVIDENCE  
No. 3

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THURSDAY, MARCH 4, 1937

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WITNESSES:

Dr. Daniel Plouffe, Superintendent of the Criminal Insane Asylum,  
Bordeaux, P.Q.

Mr. Stephen Wills, Acting Deputy Sheriff of Toronto, Ontario.

J. O. PATENAUME, I.S.O.  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
OTTAWA  
1937

## MEMBERS OF THE COMMITTEE

Mr. Geo. W. McPHEE, K. C., *Chairman*

Mr. Barber,	Mr. McCulloch,
Mr. Bertrand ( <i>Laurier</i> ),	Mr. McIntosh,
Mr. Blair,	Mr. McPhee,
Mr. Clarke ( <i>Rosedale</i> ),	Mr. O'Neill,
Mr. Girouard,	Mr. Plaxton,
Mr. Hall,	Mr. Raymond,
Mr. Hamilton,	Mr. Sinclair,
Mr. Howden,	Mr. Taylor ( <i>Nanaimo</i> ),
Mr. Hyndman,	Mr. Veniot.
Miss Macphail,	

J. P. DOYLE,  
*Clerk of the Committee.*

## MINUTES OF PROCEEDINGS

THURSDAY, March 4, 1937.

The Special Committee on amendments to the Criminal Code (Death Penalty), met this day at 11.00 o'clock, a.m. Mr. G. W. McPhee, the Chairman, presided.

*The following members were present:* Messrs. Barber, Blair, Clark (Rosedale), Hall, Hamilton, Howden, Macphail (Miss), McPhee, O'Neill, Plaxton, Taylor (Nanaimo), and Veniot—12.

On motion of Mr. Howden it was resolved that the summoning of Mr. Stephen Wills, Acting Deputy Sheriff of Toronto, be ratified and confirmed.

Dr. Daniel Plouffe, Superintendent of the Criminal Insane Asylum, Bordeaux, P.Q., was called, examined and retired.

Mr. Stephen Wills, Acting Deputy Sheriff of Toronto, Ontario, was called, examined and retired.

Dr. Plouffe was recalled, further examined and retired.

The chairman informed the committee that he had a letter from the Rev. Fr. Poirier, Chaplain of Bordeaux Prison, which was addressed to the Minister of Justice and by him forwarded to the committee. The committee desired to hear this letter. It was read by the chairman and on motion of Mr. Howden it was resolved to have it included in the record.

Mr. Wills was recalled, further examined and retired.

The committee adjourned to meet again at the call of the chair.

J. P. DOYLE,  
*Clerk of the Committee.*



## MINUTES OF EVIDENCE

HOUSE OF COMMONS, Room 268,

March 4th, 1937.

The Special Committee on amendments to the Criminal Code (Death Penalty) met at 11 o'clock, the chairman, Mr. G. W. McPhee, presided.

The CHAIRMAN: Gentlemen, will you come to order please; we have a quorum now. At our last meeting we decided to call Mr. Plouffe of Montreal for this meeting, and after our last meeting it was suggested to me that we should call the deputy sheriff of Toronto, Mr. Wills. I accordingly sent a letter around to each member of the committee whom I could reach and ten of them signified assent. I could not reach the others. Mr. Wills is here to-day and if it is your wish to hear him will somebody make a motion accordingly.

Dr. Howden moved seconded by Miss Macphail: that the summoning of Mr. Stephen Wills, acting deputy sheriff of the city of Toronto, to appear as a witness at this investigation be ratified and confirmed. Motion agreed to.

The CHAIRMAN: I take it that it is your pleasure to hear Dr. Plouffe first. We have not administered the oath to witnesses previously in this committee and I presume it will not be necessary to do so now. We will now hear Dr. Plouffe.

Dr. DANIEL PLOUFFE, Medical Superintendent of the Bordeaux Hospital for Insane Prisoners, called:

*By the Chairman:*

Q. What is your occupation?—A. I am Medical Superintendent of Bordeaux Hospital for insane prisoners.

Q. Have you had any experience with men who have suffered the supreme penalty of death by hanging?—A. I have, I was present at Bordeaux at 18 hangings. I was present at three hangings to observe the prisoner at the moment when he was coming out of his cell to the scaffold, and when all that ceremonial was done, and then I observed 15 others right close to the man on the drop.

*By Mr. Howden:*

Q. Would you mind describing to the committee the mental reaction as observed by yourself on these cases where you were present when the prisoner was taken from the cell to the scaffold?—A. Well, it is done so quickly that I never observed one man who was not in a state of calm, in a state of quietness; he was pale, but very quiet. But, the observation is very short because it does not take long.

Q. You have had no occasion to come in contact with these prisoners for a few minutes before their removal from the cell?—A. Not personally, before their removal from the cell. I am talking about what happens in Montreal. From about ten o'clock on the night previous to the execution the prisoner is alone with his priest or pastor, depending on his religion; and there are just a few who can see the man after ten o'clock. So that I have had no opportunity to observe his mental condition at that time.

Q. He knows, of course, that his execution will take place on the following morning, but he does not know the exact time?—A. He is told by the governor of the jail that the execution will take place the next morning; as a question of fact, he knows it as soon as he is sentenced.

Q. Quite?—A. Hangings always take place on Friday, so on Thursday early in the afternoon the governor of the jail tells him that his chances for a reprieve are almost gone but there might yet be some hope, but that it would be better for him to prepare himself. In the evening at about ten or eleven o'clock the priest or clergyman will tell him that there is no hope and that he is going to die around eight o'clock the next morning. The priest always tells him. I know that from statements priests have made to me.

Q. You were never present in a case where the prisoner was not able to get himself to the scaffold of his own volition?—A. Not in Bordeaux; and I have never seen a prisoner who was trying not to get on the scaffold. In every case that I have observed they have done it willingly.

Q. The usual time is not more than about three minutes at the most would you say?—A. In Bordeaux it may be three minutes when they are hanging outside of Bordeaux jail, because they have to walk from the jail to the scaffold which is erected in the yard of the jail. But at Bordeaux it does not take as long as that. I am positive that it does not take more than a minute and thirty seconds from the time that the strap is put around the hands and the moment he drops. I do not think there was a case which took more than one minute and thirty seconds, and in many executions, it was less than that.

*By Mr. Hamilton:*

Q. Where is the strap put around the hands?—A. In the cell.

*By Mr. Howden:*

Q. Have you ever noticed any suggestion of a struggle after the drop?—A. In at least two-thirds of executions there are always convulsions. We do not see the convulsions of the face because there is a cap, but there is a straightening of the whole body beginning at the face, then the arms, then the body and the legs.

Q. Would you say that there was a convulsion or just a muscular tremor?—A. Just a muscular tremor, but he is unconscious at that moment.

*By Miss Macphail:*

Q. Have you administered liquor or drugs to steady a man about to die before he walks to the scaffold?—A. It may be given to a few, but not as a rule.

*By Mr. Howden:*

Q. I was under the impression that it was against the law to administer any aid of any kind to prisoners about to die?—A. Well, the doctor at the jail uses his judgment; if he is too weak or if he is too excited then you give him drugs, but you never give drug just to say he is giving something—I do not believe that is true.

Q. One would gather from your remarks that there is no consciousness after the drop?—A. After the drop I do not think a man is conscious for more than five or eight seconds.

Q. If I might ask a technical question here, you would say that consequently there is no suffering after the drop?—A. I am positive of that. I am giving you answers based on what I have seen personally. There are a lot of things we may read, but I am giving you the facts from what I have seen personally.

Q. Then you are certain that you have never seen any violent struggle after a drop?—A. I have seen one. It was not the struggle of a man who was conscious. The hangman had forgotten to put the strap around both feet before the man dropped, and when he did drop and the legs stretched out—that is the only thing I have seen; but it was just a moment and the legs came back in the normal position, even without the strap.

*By Mr. Hamilton:*

Q. Is a post mortem performed on the body afterward?—A. I do not stay after. When I have seen the body I go. I do not think there is an autopsy in each case.

Q. As I understand it death results from the breaking of the neck, or the dislocation of the vertebrae?—A. Not in every case.

Q. From what cause then?—A. The principal cause of death is constriction of the throat which stops entirely the circulation to the brain, then strangulation and asphyxia.

Q. What causes unconsciousness?—A. Lack of circulation in the brain. As soon as that rope is tight around the neck there is no more circulation in the brain and the man becomes unconscious very very quickly.

Q. Would you say it was instantaneous?—A. Well, I say from five to eight seconds; that is all I would say.

Q. What is the difference between an execution in Canada and pulling up a man in a lynching down in the southern States, as far as death is concerned?—A. There is not much. You know very well that many many people take their lives by hanging, and it is not necessary to hang yourself, that is, to have your body off the ground without touching any walls or anything. It is so easy, unconsciousness comes so quickly, so fast, that you can hang yourself sitting down on the floor or on your knees in your bed, or even lying down on your side with only your head off the ground. I remember very well when I was in St. Jean du Dieu hospital that one morning I found a woman in her bed on her knees. She had died. She had hanged herself with her stocking; one end was attached to the head of the bed and the other end was attached around her neck, and she was on her knees like that and she was dead. That is because the circulation to the brain is stopped very quickly. The least pressure on the big vessels, the carotid and the jugular veins, the least constriction of them brings an arrest of or a stop in circulation, and more so because the arteries of the brain are of small calibre in general so that the least constriction stops circulation in the brain, and unconsciousness happens very quickly.

*By Mr. Blair:*

Q. What percentage would you say died from strangulation, and what percentage died from the breaking of the neck, by the knot or turning over on the cord?—A. Of the 18 cases I saw at Bordeaux I would say that three died of a broken spine, or dislocation of the first and second vertebrae, and the others died of strangulation. And I want you to remember when I say strangulation, before that you have anaemia of the brain caused by the constriction on the blood vessels by the rope.

*By Mr. Howden:*

Q. Would you really have an anaemia? The flow in the carotid artery would be intensely stronger than the return flow in the jugular; would you not be inclined to have a congested brain rather than anaemia of the brain?—A. No, I do not think so; the flow of blood in a carotid—it is a big vessel, but when it comes to the brain vessels they are very small.

Q. There are arteries there, of course?—A. I will give you an example of when the circulation of the brain is stopped and where this is the principal cause of death. This did not happen here, I read it in a medical review. A woman was suffering from cancer of the larynx and a tube was placed in her trachoma, and shortly afterwards they found her hanging. It did not have anything to do with the constriction, but she was dead and she died in about fifteen minutes.

Q. Well then, even where there is no dislocation between the atlas and the axis you are inclined to think they died of anaemia of the brain?—A. Yes, I am positive that the unconsciousness is there, no matter if the first and second vertebrae are dislocated. I am positive of that.

*By Mr. Blair:*

Q. Would you think it would be instantaneous, the strangulation?—A. If you say, in one second, I will say no; but I am almost positive it does not take more than between five and eight seconds before a man is unconscious.

Q. Would it be quicker in cases where there were separations of the vertebrae and the cord was caught or pressed—A. Well, it would be a little quicker.

Q. It would be a little quicker?—A. Yes.

*By Mr. Hamilton:*

Q. Is the noose adjusted so as to accomplish that?—A. There is another factor, take the case of a heavy man, say a man weighing around 220 pounds—I saw one case where such a man did not move one-eighth of an inch after he dropped through. There was no apparent movement, no respiration or anything at all, and it was very very clear afterwards that the first and second vertebrae were about this wide apart. (Indicating about three inches.)

*By Mr. Blair:*

Q. Do you always seek to have that done in hanging?—A. No.

*By Mr. Taylor:*

Q. Is there any adjustment of the rope or not?—A. They try to do that as much as possible. You have the resistance of the muscles.

Q. The resistance of the muscles in fact would necessarily bring about this condition of anaemia that you speak about?—A. It will to a certain extent; but what I mean with regard to resistance of these muscles is that when they are contracted they protect the two vertebrae from separation of the ligaments.

Q. But they would also protect the carotid wouldn't they?—A. They would to a certain extent, but as soon as they are down and this resistance drops off they do not.

Q. It would be harder to hang a wrestler, for instance, than a big woman?—A. What did you say?

Q. It would be harder to hang a wrestler, a man who wrestles—a man with a strong muscular neck—than it would be to hang a person who has a thin emaciated neck, say a woman?—A. Well, I was present at the hanging of a professional boxer, and it was one of the best executions I have seen. It was all very quick.

*By Mr. Blair:*

Q. Do you vary the drop? Do you find any difficulty in determining how far to let the victim drop so as to separate the vertebrae, or so you will not pull the head off; or do you let them drop about the same distance?—A. Pull the head off? It happened once.

Q. In Winnipeg?—A. No, in Montreal.

Q. In both.

Miss MACPHAIL: In Montreal.

The WITNESS: I was there. I was present. This does not depend on anyone's fault. I am giving my opinion on that. It was the fatty degeneration of the muscles. The muscles could not hold the weight of the body. After the muscles gave up, of course the skin did also. But no one could know about that.

[Dr. Daniel Plouffe.]

*By Mr. Hamilton:*

Q. Have there been many cases in your experience where there has been any bungling or any miscarriage of the execution in that way?—A. I gave you an example where it was forgotten to put the strap around the feet. That is the only time.

Q. Is that the only one?—A. Yes.

*By Mr. Blair:*

Q. What would be the longest time that you had certified death in your 18 cases?—A. Well, death is not certified by me. It is certified by Dr. Benedict. But I am always with him—not officially, but scientifically.

Q. What is the longest time?—A. You mean that the body?

Q. —from the drop until you certify that death has occurred?—A. Between 13 and 15 minutes.

*By Mr. Howden:*

Q. Do you mean to say that the heart is beating for 15 minutes after the drop?—A. No. We leave them. Before the circulation has stopped. That is what I mean.

Q. Dr. Blair asked what was the longest period of time of which you knew after the drop before the patient was dead?—A. Before the heart stopped?

Q. Well, before the patient was dead, anyway?—A. Ten minutes.

Q. Ten minutes?—A. Yes.

Q. How do you ascertain that? What is your basis of knowing?—A. By the pulse.

Q. By the pulse?—A. And by the stethoscope.

Q. Then you say that the heart is beating for as long as ten minutes after the drop?—A. In some cases, yes.

Q. May I ask another question. You stated a little while ago that a woman had hanged herself, in whom there was no interference with respiration—there was a tracheotomy tube in her neck?—A. Yes.

Q. Hanging in that way, it would be quite impossible for her to dislocate the two first vertebrae in her neck?—A. It was impossible.

Q. Then that woman must have died from some other cause. What was the cause of death in her case?—A. Compression which stopped the circulation of the brain, an inhibition.

Q. What is that?—A. Inhibition. This means sudden disequilibrium of the function of the brain caused by great emotion—not in this case, maybe, but in other cases of men who are hanged—or by the surprise caused by the rope on the neck. We call that inhibition. It is a phenomenon which is caused by great emotion.

Q. Shock—nervous shock?—A. Yes.

Q. Then you think they do occasionally die from nervous shock in hanging?—A. I am inclined to think so, yes.

Q. That is a new one on me.

Mr. TAYLOR: As a matter of fact, it seems there is no definite understanding of how they do die.

The WITNESS: I am sorry I did not catch you.

Miss MACPHAIL: But they do die.

Mr. TAYLOR: I say it is becoming apparent to me that there has been very little scientific attempt to discover precisely how they do die. They just die, and that is all there is to it.

Mr. HOWDEN: Of course, that is all you want.

Mr. TAYLOR: I know. But still we are trying to find out how they die and how long it takes.

The WITNESS: Which way do you mean—that nothing was done to find out about that, about the cause of death?

Mr. HOWDEN: That is what he means, yes.

The WITNESS: Oh, yes. All that I am saying now about the circulation of the brain and about strangulation—of course all those things were found out by different scientists, by autopsy. This was not done here, but it had been done in many countries.

*By Mr. Howden:*

Q. Just taking you up on that point, Dr. Plouffe—if the patients do not always die from suffocation, then the post mortem conditions are not always similar; that is to say, from time to time you have seen corpses which, after hanging, did not exhibit the signs of strangulation?—A. I have seen some, yes.

Q. You have seen some?—A. Yes.

Q. In which there was no suffusion of the face?—A. No. I told you about four.

Q. About four?—A. In those cases the face is pale.

Q. But in the majority of them there are signs of suffocation?—A. Yes.

*By Miss Macphail:*

Q. I would like to know first who it is that puts the strap around their feet and ties their hands. Who is it that does those last things? Is it the sheriff?—A. Oh, no. It is the hangman.

*By Mr. Howden:*

Q. The hangman is the sheriff's deputy in that case?—A. Yes.

*By Miss Macphail:*

Q. How many people will there be about the prisoner at that time—several people?—A. The twelve members of the coroner's jury and two or three guards who will attend to the body after that. I should not be there, but I am just the same, from the scientific point of view. That is about all. For the last four or five years the members of the jury are always doctors—every one of them.

*By Mr. Blair:*

Q. The members of the jury?—A. Yes—always doctors.

*By Miss Macphail:*

Q. What is the effect or what is the reaction on those people who are there up till the last? Do you think there is a strong reaction? Do you think they suffer a strong reaction—those people who are with the prisoner until the last moment and have to contemplate, whether they want to or not, the death or the manner of death?—A. You mean the jury?

Q. The jury, the hangman, and the deputy sheriff?—A. Well, they are all doctors, and they do not let much impression be seen on their faces. They are used to being in the operating room and all that.

Q. The hangman is not a doctor. There must be others who are not doctors there at the time, are there not?—A. Well, the hangman—to tell the truth, I never observed him. It has nothing to do with my work.

*By Mr. Hamilton:*

Q. Has it been the same hangman all the time since you have been there?—A. No. Lately, in the last two hangings, it was a different man.

[Dr. Daniel Plouffe.]

*By Miss Macphail:*

Q. You do not observe him—from distaste or just from indifference?—A. No. It is more from the scientific point of view that I observe. You see, my work in the hospital is in the same building. The scaffold is right close to the hospital; so all I have to do is step out of my room—out of my office.

Q. You have just stated that you did not observe the hangman. What I wondered was why you did not. Was it because you have instinctively a distaste for the task that he performs and therefore for him?—A. Well, if I would observe the hangman, I would not be able to observe the man who is hanged; it is done so quickly. From a scientific point of view, the other one interests me more than the hangman.

*By Mr. Howden:*

Q. We have asked you the longest period of time that has elapsed between the drop and the cessation of circulation. Will you tell us the shortest period of time?—A. Oh, four minutes.

Q. Four minutes?—A. Yes.

Q. In the instances where the process of life extinction was apparently delayed, would you be inclined to think that those cases were cases of strangulation?—A. Yes.

Q. Suffocation?—A. Yes.

Q. You would?—A. Strangulation.

Q. Strangulation?—A. Yes.

*By Mr. Blair:*

Q. Why did you change your hangman?—A. Oh, I do not know why. I am not an official. I am just there from the scientific point of view, according to my work.

Q. In your case where the woman had her head pulled off, did her friends see her afterwards?—A. I do not think so.

Q. It is reported that they did, doctor.—A. I do not think so. I think she was put in—how do you say it—a casket, and that was all.

Q. Are the others shown to their friends? Do the friends see the others?—A. I do not think so, sir.

Q. You do not know?—A. Maybe a brother or—they are sent from the jail to the cemetery. I do not think they are seen by anyone.

Q. No. We have had reports that they were seen.

*By Mr. Hamilton:*

Q. Did you ever see any executions by gas, doctor?—A. No.

Q. Just by hanging?—A. That is the only thing, yes.

*By Mr. Howden:*

Q. Have you had any experience with any other form of death punishment?—A. No.

Q. None at all?—A. No, I have not.

Q. Have you formed, in your own mind, any idea as to the relative merits or demerits as between hanging and death punishment by lethal gas?—A. It is a personal opinion.

Q. Quite so. What is your personal opinion?—A. I would not change.

Q. You would not change?—A. No.

*By Mr. Plaxton:*

Q. What are the reasons?—A. The reasons? There is one. When you hang a man, or when you give him lethal gas, you do not do that just to get rid of him. You do it on the basis of justice and you do it on the basis of giving an example to others.

Mr. HOWDEN: The deterrent effect.

The WITNESS: And in the hanging the deterrent effect is produced, in my opinion, by the horror, by the repugnant aspect of that kind of death. If you would go through the jail the day that a man is hanged or the next day, you would notice a very special atmosphere—calm. Everybody is thinking. They do not laugh. They go to their work, but they are all different. I noticed that time after time. It is really a special atmosphere. I do not know if my expression in English is right, but that is what I believe. I have been examining, as to their mental condition, quite a number of murderers. One day I examined a young man. He was twenty, and he was intelligent. He was not insane. I asked him, "Why do you always have a gun when you go out to steal money?" He said, "Well, doctor, that is in case we would need it. But you do not imagine that we use the gun all the time that we have it in our hands. Most of the time the gun is empty." He said, "Doctor"—that is the way he talked to me—"suppose to-morrow night you will be met on the street and you have got \$100 in your pocket; and two fellows come to you and say, 'Your money.' Would you be crazy enough to keep that money and try to fight with them? You will give up the money and you will say, 'To-morrow I will get some more.' And we all know that." But he said, "When we use the gun it is always in self-defense." That was his expression. I said, "Well, why don't you do the job right away when you come to a man? You have got your gun. Why not kill him, take your money and go away? It would be easier and there would be less danger of your being caught." He said, "Yes, but there is the rope." And he used a word about that. "There is the rope—the g.d. rope." That is what he answered me—"There is the rope. That is a hell of a game."

*By Mr. Blair:*

Q. Do you think hanging might be a little more severe than the lethal chamber?—A. About the same, sir, as long as the execution is concerned. But as long as you consider the reasons why you hang a man—the deterrent effect—in my opinion, there is quite a difference between them.

Q. Doctor, if you were to punish him more and show the public how you were punishing him, would it have a deterrent effect and would it improve conditions?—A. Well, the question in hanging is not really the question of punishment. It is the question of giving an example to others; and when you hang a man, the criminal population and others are under an impression of horror; and that is what produces in hanging the more deterrent effect. It is not the fact of giving a very severe or suffering punishment that will be the deterrent effect. It is what surrounds that hanging. I do not know if you understand my English.

Q. Yes, I understand, doctor. Your English is good. You are a student of this work. We are not approving of abolishing the death penalty, but you could tell me of any country where the death penalty is abolished and where the homicides have increased?—A. No. I did not study that at all. It is not in my line.

*By Mr. Hamilton:*

Q. Could you say this, doctor: In your opinion, is the gas method of execution more humane, leaving aside the deterrent effect? If you are thinking in terms of being more humane to the man to be executed, which do you think is the most humane method—hanging or gas?—A. About the same. But I am surprised—I have been reading the report given to this committee by the investigator. You understand well that the moral anguish of the prisoner before execution is the worst thing of the execution. Now, in Colorado the prisoner entered chamber at 7.47 p.m.; doors locked at 7.50 p.m. That is three minutes that this man is sitting in that room knowing that he is going to die there.

[Dr. Daniel Plouffe.]

That is three minutes. Eggs enter solution, 7.51 p.m.; prisoner apparently unconscious 7.52 p.m. So from the moment he is in that room until the prisoner is apparently unconscious—7.47 to 7.52—is five minutes. Certainly unconscious, 7.57. That is ten minutes. Well, this man has at least suffered terribly for ten minutes before he became unconscious of his death—that he was dying.

*By Mr. Hamilton:*

Q. You mentioned moral anguish. Is that dread the dread of death or of the physical suffering involved in death?—A. The dread of death.

Q. Of death itself?—A. Yes.

Q. Or of the method of death?—A. No, of death itself.

Miss MACPHAIL: That is my view.

*By Mr. Barber:*

Q. There is one question I should like to ask the doctor, in case a wrong impression has gone out. The doctor has said that this man is not pronounced dead or the doctor does not discover he is really dead for I think four minutes is the shortest time and 15 minutes the longest time?—A. Ten minutes.

Q. I think we are liable to convey the impression that the man was conscious at that time. He is not conscious?—A. No. I insist on that, saying that the man becomes unconscious from five to eight seconds after the drop. He should be considered as being dead because there is no more sensation. There is no more knowledge of what he is going through.

Mr. HOWDEN: Mr. Chairman, we have had Dr. Plouffe pretty well on the spot, as it were, for the last fifteen or twenty minutes. I was just wondering if he had a definite submission that he wished to place before the committee.

*By the Chairman:*

Q. Have you any definite submission, doctor?—A. I did not know what you were going to ask me.

Mr. HOWDEN: It is quite satisfactory as far as we are concerned. I thought possibly you might have brought a written submission that you wished to place before us.

The WITNESS: No.

*By Mr. Plaxton:*

Q. Doctor, can you express an opinion as to whether or not a criminal is thinking of the death penalty when he or she might commit a capital offence?—A. Well, what I told you, sir, about this young man, when he mentioned to me the rope—there is no better example to show you what they think of it. If they go ahead with an empty gun, they must think of the rope; because he told me, "Yes, but there is the rope." So they must think of it.

Mr. HOWDEN: Do you not think that in time they would get to think the same way about the lethal chamber?

Miss MACPHAIL: It is death he means. The moral anguish is in facing death rather than the method—although he says "the rope." Is it not possible that is just his way of saying "the death penalty"? And however his life was to be taken, that would be the deterrent so far as that man is concerned—not to the method, but whether or not his life was to be taken.

The WITNESS: Yes. It is all right to take the more humane way of taking his life. At the same time—this is what I believe—you must always think of giving an example to others.

Miss MACPHAIL: Yes, the deterrent effect.

The WITNESS: So that if you use a method which will be humane, which will render this man unconscious in less than a minute, less than half a minute, what is exterior to that will be a greater example to others—well, I think it is a great way of going according to the law.

*By Mr. Howden:*

Q. You think the death penalty has a dual function, so to speak, in the execution of prisoners?—A. Justice—

Q. One is for its deterrent effect?—A. Yes.

Q. And the other is to dispose of the prisoner?—A. I am convinced of that. If you take off the deterrent effect—well, what is left? Are you just taking the life of a man? Why go as far as doing that in a case like that, if you do not consider the deterrent effect? You are simply putting society in the position where society seems to kill a man as revenge.

Mr. BLAIR: That is right.

Mr. HOWDEN: No, I do not agree with that. If you have a killer, and he is a dangerous individual to society, the only way to get rid of him is to kill him. There is not necessarily any revenge about that at all, if you have a dangerous man who has destroyed two people; once you destroy him, then you are through with him and there is no further danger.

The WITNESS: You will kill him anyway where you will meet that man. Well, that is the deterrent effect.

Mr. TAYLOR: History does not support you in the idea that the elimination of a man by hanging has a deterrent effect.

The WITNESS: Who does not support that?

Mr. TAYLOR: History does not support that.

The CHAIRMAN: Well, that is a matter of argument, is it not?

The WITNESS: You are asking me—

Mr. BLAIR: He does not know, he says.

The WITNESS: You are asking me what I think.

Mr. TAYLOR: Yes.

The WITNESS: I am telling you what I do think. I may be wrong. But I am not going to tell you what the Germans or French or Americans think. I am just telling you what I do think.

*By the Chairman:*

Q. And what you have seen by observation?—A. Exactly.

*By Mr. Plaxton:*

Q. Doctor, do you suggest that when a person commits murder, the criminal is thinking of possible consequences?—A. At that moment?

Q. Yes?—A. He does not at that moment. He knows very well what is going to happen to him.

Q. That is assuming he thinks he is going to get caught?—A. Well, when he does a crime he is always, as far as he is concerned, sure that he will not be caught.

Q. That is the thing exactly.—A. So if he is sure that he is not going to be caught, there is no use for him to think of the punishment.

[Dr. Daniel Plouffe.]

*By Mr. Clarke:*

Q. May I ask you, doctor, if you think that hanging would be more expedient and more humane than the militia way of bringing a man out and shooting him—having him before a gun squad and shooting him?—A. I could not tell you.

Q. I am just asking your opinion, that is all?—A. I do not know. I have never seen any.

Q. You have there the length of time these men would be walking out, and the way they execute people in the militia—the military way of execution? A. I could not tell you. I could not give you an answer to that which would satisfy myself.

Mr. BLAIR: We have another witness.

The CHAIRMAN: If there are no further questions, we shall let the doctor retire. I am sure it is the wish of the committee that we should express our thanks to the doctor.

Mr. HOWDEN: I was going to say that this would be a good time to move a vote of thanks to him for his very interesting testimony.

Mr. BLAIR: I second that.

The CHAIRMAN: What is your pleasure?

Motion agreed to.

The CHAIRMAN: Thank you, Doctor Plouffe.

Witness retired.

STEPHEN WILLS, called.

*By the Chairman:*

Q. You live where, Mr. Wills?—A. In Toronto, sir.

Q. What is your occupation?—A. I am one of the acting deputy sheriffs in the city of Toronto.

Q. How long have you been in the position of acting deputy sheriff?—A. Twenty-four years, sir.

Q. In that space of time have you witnessed some executions?—A. During the last twenty years I have been present at every execution in the city of Toronto.

Q. About what number would that be?—A. There have been eleven—eleven men killed.

*By Mr. Howden:*

Q. What are your impressions of the death penalty by hanging? Are you inclined to think that it is probably the most satisfactory, efficient and most humane method that we could have, or what would you suggest with regard to it?—A. Well, I have always had at the back of my mind the possibility of decapitation every time that there is a hanging. There is always the fear of that. I have made inquiries myself in the States with regard to the chair; and, I think, from that point of view, a change would be beneficial. After my experiences in being present at the different hangings, I am inclined to think that a change would be beneficial.

*By Mr. Hamilton:*

Q. Have you experienced any decapitations in the eleven you have attended? —A. No. I have not had that misfortune.

Q. But you have been afraid that it might happen?—A. Yes. You see, there have been two. There have been two in quite recent times. There was one in February, 1932, at Winnipeg, where a man was decapitated; and the other you have heard about in the Montreal section.

*By Mr. Howden:*

Q. You heard the testimony of Dr. Plouffe, would you be inclined to agree largely with his evidence?—A. Yes, I was very struck with the doctor's testimony this morning.

Q. Why are you so much afraid of that danger of having a decapitation?—A. I can only answer you by telling you that I would not like to be present on such an occasion.

Q. I am not interested in that, I am interested in getting knowledge; apparently you would not want to be decapitated?—A. I would not want to be present.

Q. What reason have you to offer for this great fear of decapitation?—A. Because I think it is an inhuman way of killing a man.

*By the Chairman:*

Q. When do you usually notify the condemned that he is going to be hanged?—A. All executions in the city of Toronto take place at eight o'clock in the morning, that is the set time, at the Toronto jail. The night previously the spiritual adviser of the condemned man comes into the jail and spends the whole night with the man, and I always think that the spiritual advisor will tell the man actually as to what time it will take place.

Q. Is the spiritual advisor always present at the execution of the condemned?—A. Always.

*By Mr. Hamilton:*

Q. How long would it be from the time he leaves the cell until the drop?—A. Three minutes.

Q. Is that a fairly consistent average time?—A. That is what I take the average at.

Q. Have there been any bungling in the handling of it by the executioner in the eleven cases you have mentioned?—A. Well, I have one case in mind where a man was allowed to have too long a drop, and on going down to the lower cell I found that the man was practically on his knees when he got down at the end of the rope.

Q. Did that occur in Toronto?—A. Yes.

Q. Can you tell us something about that?—A. I would like to enlarge upon that if I may.

Q. Go ahead?—A. In that particular instance, it is always my custom—I am present first of all up stairs naturally where the man is hanged, where the man is dropped through the trap; and then I go down into the lower cell and take the doctor in. But in this particular instance the hangman had gotten down before me and I found him hanging onto the man so as to insure speedy death.

*By Mr. Howden:*

Q. You mean to say that he was pushing down on the man?—A. Yes, sir, hanging on to the man with his weight to bring him onto the rope until he was dead.

*By Mr. Hamilton:*

Q. How could that occur, except through a serious miscalculation in the length of the drop?—A. It was the miscalculation on the part of the hangman.

Q. It was because of the length of the rope, too much rope had been allowed?—A. Yes, sir.

[Mr. Stephen Wills.]

Q. Has there always been the same hangman?—A. No, sir, we had a new man in 1931. Before that Mr. Ellis always operated in Toronto. Since then a new man has been operating.

*By Mr. Howden:*

Q. But to refer to that case in particular, was death fairly rapid in that instance?—A. There has not been one rapid one that I have seen yet.

Q. Tell us about this man who was resting on the ground, how long did he live after that?—A. Eighteen minutes.

Q. Did he struggle?—A. Yes, he did. There was a struggle. And while I am referring to a struggle, I think one or two members this morning asked Dr. Plouffe about a wrestler being hanged, as to whether it would be more difficult; I have had cases of that kind, not an actual wrestler but a very strong athletic man; and that was the only man I ever saw actually move on the rope after the drop, and I saw that man in some way lift himself up three times like this (indicating by a backward tilt of the head) after he dropped down, as I was observing him.

Q. Generally a body is fairly limp after the drop would you say?—A. Yes. There have been one or two instances where I have seen a slight movement.

Q. It would be just a little bit of a body tremor?—A. Yes, because you see the arms are pinioned behind a man in this fashion (indicating), and the legs are strapped, so there is not very much chance for him to move.

*By Mr. Hamilton:*

Q. What is your opinion as to consciousness, how long after the drop would you say it continues?—A. I could not say. I would not like to offer any opinion after medical testimony on that point.

*By Mr. Taylor:*

Q. With regard to the muscular spasms to which you referred, do you think that would represent a conscious effort?—A. I think it was possibly spasms.

*By Mr. Howden:*

Q. In the light of what you have said I would take it that the man's neck had not been broken on account of his extremely strong neck muscles and that he had been trying to lift the weight of his body with them?—A. Possibly.

*By Mr. Taylor:*

Q. That is what I am trying to get at, that he actually was conscious and he thought that if he were to tighten his muscles he would save his neck?—A. I think so. In connection with that I would like to tell you—I do not know whether the medical testimony would have anything at all to say about it—but in that particular instance that man was not administered any sedative before the hanging. It is our rule in Toronto to always—I go to a man's cell an hour before the hanging taking a doctor with me and I ask him if he desires to have any hypodermic.

Q. Do you ask him if he would like to have a hypodermic?—A. But most of them do not.

Q. Can they have one if they ask for it?—A. Yes, always in Toronto. It is the practice.

Q. A hypodermic of morphia, how much?—A. Three-quarters of a grain of morphia.

Q. That would ease them out all right?—A. It has been invariably so in every case.

*By Mr. Hamilton:*

Q. What is that for, is it used as a sedative?—A. No, no, no sedative is ever used. I notice that at your last sitting, from going over the evidence, that somebody suggested that a stimulant was given.

Mr. HOWDEN: Morphia means the bliss of peace to a man; without anything else.

*By Mr. Blair:*

Q. Do you know if the sheriffs at Hamilton or Toronto approve of the use of carbon monoxide for gas instead of cyanide. I have a letter from Mr. Lawarason, the sheriff at Hamilton, who leaves that impression here?—A. I have only heard through my own sheriff that the sheriffs of Ontario in convention approved the change.

*By Mr. Howden:*

Q. But you are inclined to think that you would approve of the change?—A. Yes, I would.

*By the Chairman:*

Q. Is that really the fact, or is it that you are the deputy sheriff and do not wish to witness the executions?—A. No, I think it is more humane.

Some Hon. MEMBERS: Hear, hear.

*By Miss Macphail:*

Q. You think there is a revolting horror from hanging. I would like to have you answer the same question that I asked Dr. Plouffe; have you noticed the effect upon those who are there at the time, do you think there is a strong reaction felt by the people present?—A. Yes, there are very few people present though.

Q. I know that?—A. As a matter of fact when the press used to be present they were far away from the execution chamber. They hardly saw anything of what took place.

*By Mr. Hamilton:*

Q. There is not a jury of 12 members?—A. No, there is never anybody there except ourselves.

*By Mr. O'Neill:*

Q. How many are present?—A. There is myself, another representative from the sheriff, the governor of the jail, the hangman and two doctors.

Mr. TAYLOR: And the spiritual advisor.

The WITNESS: I beg your pardon, yes; the spiritual advisor of course is always with them.

*By Mr. Blair:*

Q. Are the friends allowed to see the remains?—A. No, unless a request is made for the body to be turned over to them and that is granted by the department.

Q. Is it often granted?—A. Yes, it has been lately.

Mr. BLAIR: Yes, I think so.

*By Mr. Howden:*

Q. In the eleven cases that you mention how often was there, let us say, an accident?—A. I should say that there was only that one that I referred to.

[Mr. Stephen Wills.]

Q. Only the one occasion, in every other instance the loss of consciousness was almost immediate you would think, and death followed in a comparatively short time?—A. Comparatively—I could give you the actual times of every one that I have been present at as to the time.

Q. Let us have that?—A. As to the time until the doctor certifies to death. You will allow me to refer to my notes?

The CHAIRMAN: Oh, yes.

Mr. HOWDEN: Please do.

The WITNESS: In one case it was 17 minutes; and then 10 minutes; 15 minutes; 12 minutes; 15 minutes; 12 minutes; 15 minutes; 15 minutes; 17 minutes; 17 minutes and 17 minutes.

Q. And you would say that there was a sense of life as represented by the beating pulse of the heart for that length of time in these cases?—A. There must have been, because the doctor—as soon as the hangman is through the doctor goes down, I take him downstairs afterwards and a step ladder is provided so that the doctor can get up and test a man's heart beat with a stethoscope all the time until he gives me the official word that the man's body can be taken down.

*By Mr. Hamilton:*

Q. So that the times you have given indicate the actual time of death?—A. The actual time from the drop of the trap until the time the doctor has told me that death has occurred.

Q. Might I ask you this; does the executioner or hangman have any difficulty in the sense of being nervous?—A. I have never known that when Mr. Ellis was operating; but naturally when we had a new man who had had no experience before, that was in 1931, he was obviously very nervous at the first, I should think, three or four.

Q. Is he still doing the executing?—A. He is going all over Canada now.

Q. Is it a fact or not that the executioners themselves on occasion resort to stimulants to steady themselves?—A. I have heard it, but I have never known anything actual in relation to that. I have never seen any man, I should say, who ever had a drink at all before an execution.

*By Mr. Plaxton:*

Q. Where does the executioner stand?—A. The lever is just at the right hand side of the trap. There is a very small space there and he naturally stands just back of the front of the trap.

Q. Is that right next to the condemned man?—A. Yes, with the spiritual advisor standing in front of him.

*By Mr. Howden:*

Q. There is no delay?—A. None at all. Everything goes very very rapidly from the time we go into the condemned cell. The man's arms are pinnioned as soon as I take the hangman in there. First we ask the man if he has any last word to say. Then I instruct the hangman to go ahead, and that is done very very rapidly. The man is led out—in Toronto it is only a few steps—from the condemned cell into the execution chamber; it is right next door to it; then when the man has his feet strapped the executioner steps back and draws the lever.

*By Mr. Taylor:*

Q. Is the rope fixed in any way to produce dislocation of the neck?—A. It is fixed on to a beam.

Q. Yes, I understand that; but I understood that there was a sort of knot worked into the rope in that part of the noose which would have the effect of catching the neck and causing dislocation?—A. The rope that is put around the man's neck is drawn up tight by the hangman.

Q. And it is a plain rope?—A. Yes.

*By Mr. Howden:*

Q. Is it not always placed behind the ear?—A. Yes, at the side of a man's head.

*By Mr. Blair:*

Q. What percentage of these would have their necks broken?—A. I could not tell you that because we have discontinued the practice of post mortems in Toronto, the coroner does not insist on post mortems, they were discontinued away back in 1919, or it may have been in 1922.

Q. Would the strength of the neck indicate the length of the drop?—  
A. It is the weight of the man.

Q. Would not strength and weight together be considered in determining the length of drop. A man with a small neck might be a heavy man?—A. Yes it would.

Q. Do you find any difficulty in estimating just the right length of drop you should have?—A. I do not have anything to do with that, we leave that to the hangman.

*By Mr. Hamilton:*

Q. A new hangman would have to do it pretty much by guess, wouldn't he?—  
A. I presume so.

Q. I would like to get an answer to this question from some witness; perhaps we should submit it to the present witness; it is in connection with ropes, perhaps it is not very important; but my impression has always been with regard to the rationelle of hanging that with the rope with the knot on one side behind the ear the drop would have a decided tendency to bend and dislocate the neck, and I would say always that the neck was dislocated or broken. I would like to ask this witness what his opinion is with regard to that?—A. I would rather you asked a medical man that question.

The CHAIRMAN: We might recall Dr. Plouffe?

Mr. HOWDEN: That is a question I had intended to present to Dr. Plouffe.

*By Mr. Hamilton:*

Q. You have said that the knot is always on the side under the ear?—  
A. Yes.

Q. Any particular side?—A. No.

*By Mr. Howden:*

Q. But usually the left side?—A. Yes.

*By Mr. Clarke:*

Q. Is it always a new rope that is used?—A. Yes, every time.

*By Mr. Hamilton:*

Q. You have never seen an execution by gas?—A. No, I have not. I cannot tell you anything about the gas method.

*By Mr. Plaxton:*

Q. You have referred to a case of an execution where the rope was too long; what happened after the trap was sprung in that case?—A. The man dropped through and he dropped on his feet.

[Mr. Stephen Wills.]

*By Mr. Hamilton:*

Q. Would his legs be broken?—A. No.

*By Mr. Plaxton:*

Q. What happened?—A. That was the time when the executioner was hanging on to the man's body so as to get extra weight, because he was not actually hanging in the air.

*By Mr. Clarke:*

Q. How long before the doctor called him dead?—A. Seventeen minutes.  
Miss MACPHAIL: That is murder.

The CHAIRMAN: Have you any further questions for this witness? Then, Mr. Wills, may I extend to you the thanks of this committee for your appearance here to-day.

Witness retired.

Dr. Daniel Plouffe, recalled:

*By Mr. Howden:*

Q. You heard my question?—A. About the neck?

Q. I stated to the committee that my opinion was that the position of the knot behind the ear would have the tendency with the drop to turn the head sideways and either pull the atlas up over the end of the axis or break the boney processes at that point; what do you say as to that?—A. It is done for the purpose of dislocating the two first vertebrae.

Q. That is the rationelle of hanging, that is what I thought?—A. And at the same time it gives a very strong pressure on the big vessels going up there, do you see. The placing of the knot right back of the ear coming down around the neck throws the head sideways like this (indicating); it throws the head to one side and it turns the head around from the neck.

*By Mr. O'Neill:*

Q. But it did not do that forcibly in four times out of eighteen?—A. As I say, they do all they can.

*By Mr. Blair:*

Q. If you drop them a little further would you not accomplish a better result?—A. No, when they are going to hang a man they measure the length of the rope to correspond with his weight.

Q. Would you not take into consideration the build say of an athletic man?—A. Yes, they take that into consideration; but it is the weight of the person especially.

*By Mr. Taylor:*

Q. When the body is hanging in the well is the head always on one side?—A. It is always on one side. It is on the side opposite to the knot.

*By the Chairman:*

Q. Who is the chaplain at Bordeaux prison at present?—A. Father Poirier.

*By Mr. Hamilton:*

Q. You had only three cases in which the neck was broken?—A. I said four.

Q. How was that ascertained, autopsy?—A. Well, without the autopsy, just by examining the spine you could see that between the second and first vertebrae you could insert two or three fingers, so there was no doubt.

Q. But then, would there be any doubt as to whether in some of these other cases that the spinal column was not broken, that it might have been?—A. Surely.

Q. That it might have been dislocated?—A. A lesser dislocation really would not show on examination. It would necessitate an autopsy to determine that.

Q. There is no special examination after that to ascertain whether that has happened or not?—A. No, not to my knowledge.

Q. So that it might have occurred in more than four?—A. It might have.

Q. It was not obvious?—A. It was not obvious.

Witness retired.

The CHAIRMAN: Now, gentlemen of the committee and Miss MacPhail, Father Poirier is the priest chaplain of Bordeaux prison and he has written a letter to the Hon. Mr. Lapointe, Minister of Justice. He has been present at the execution of ten condemned persons, and we can either call him or have his letter put in the record.

Mr. HOWDEN: You better read the letter and then we can tell what we are going to do with it.

The CHAIRMAN: This is the letter:

The Honourable Ernest Lapointe, M.P.,  
Minister of Justice,  
Ottawa, Ontario.

Dear Sir:

As chaplain of the Montreal prison and lunatic asylum for criminals for over three years, in which capacity I have prepared and assisted ten prisoners condemned to the scaffold, I venture to submit briefly my personal opinion and experience on the question to be discussed shortly in parliament, viz: "Should we change our mode of execution?"

The ten prisoners executed were well prepared and happy to die. I believe hanging is the method that brings the easiest and quickest death. Nine out of the ten did not move one finger after being executed. They died instantly and, consequently, suffered no pain. One only showed slight convulsions for a period of about ten seconds.

They are so well prepared that one of them spoke to me in the following terms a few minutes before being taken to the scaffold: "I have asked God to prolong my sufferings at the end of the rope." To which I replied "I have asked him that it be otherwise and I believe my prayer will be granted." And, truly, he showed no sign of life whatever from the moment the trap had been sprung.

Four Italians, three men and a woman, were hanged in 1935; three on March 29th, and the other on May 3rd. Since then, there have been no further murders amongst the Italians. "Initium Sapientiae timor."

Mr. HOWDEN: Which, being interpreted means:—

The CHAIRMAN: Which means, "In the beginning fear is good."

About a year ago, Rev. Father Scott, S.J., who resides in the United States, wrote a remarkable article in *Columbia* on capital punishment and concluded as follows: "If justice with respect to capital punishment was administered in the United States as it is in Canada, murders and kidnappings would be much scarcer."

[Dr. Daniel Plouffe.]

Our prisoners awaiting the death penalty have at their disposal, for at least three months, a devoted priest who interviews them every day, spends with them their last hours on earth and to whom they confide as to their best and only friend whose task is to prepare them for heaven. He assists them, prays with them and incites them to offer their life in sacrifice for their sins with the hope of a better world. They are so resigned to their fate that the day of their execution, however sorrowful it may be, is also for me a day of many consolations.

Would it be the same with the lethal gas method? I do not believe it! In England they still have hanging as their mode of execution.

I trust you will pardon me for so conveying my feelings, hoping to be of service.

With my most sincere and respectful regards,

I am, Mr. Minister,

Yours sincerely,

(Signed) B. POIRIER, Priest Chaplain,  
Bordeaux Prison,  
680 Gouin Boulevard West.

February 10, 1937.

The CHAIRMAN: There is the letter. Do you wish to have it read into the record?

Mr. BLAIR: Do you think we require any more witnesses, adding to our expenses?

The CHAIRMAN: Will we allow the letter to go on record?

Mr. HOWDEN: I would have the letter read into the record. I am not in favour of asking the reverend gentleman to appear.

The CHAIRMAN: Is it the wish of the committee that this letter shall be read into the evidence?

Some Hon. MEMBERS: Agreed.

Mr. PLAXTON: Might I make a suggestion? The evidence seems to establish pretty well the merits of these two modes of execution; that is, as to the humane aspects of them; but it seems to me that a far more serious question to determine is whether or not gas is a greater deterrent, or an equal deterrent to crime than hanging. I should think it would be advisable to have some authority to attend this committee who can speak on that particular subject, and I can think of no one better qualified than the warden of the Colorado prison, who last year was the president of their association, and whose prison has been administering this form of death penalty—gas—for many years.

The CHAIRMAN: Well, Mr. Plaxton, when Mr. Plaxton of the Department of Justice was here giving evidence he touched on that point. If you turn to page 5 of the evidence you will observe that a question on that point was asked by Mr. Plaxton in the letter which he sent out. It reads:—

What is the relative value of this method of execution as a deterrent to crime?

Ans. Nevada: Just as there is nothing to prove hanging as a deterrent so there is nothing to prove "gas" a deterrent.

Arizona: I believe this question is entirely up to one's own personal opinion. It seems that every one has a different view of it. We have had a number of persons who have witnessed executions here, both by hanging and with gas, and they are equally divided as to their opinion on this subject.

Colorado: No specific answer.

Wyoming: It is considered that this method will have no more effect as a deterrent on crime than any other method of capital punishment.

North Carolina: It is impossible for me to answer this intelligently. From the number of executions we have had by electricity, and the number we have waiting execution by gas, it would appear that neither of these methods is of great value as a deterrent to crime.

Those are the opinions of the five States that have lethal gas. Would it help the committee if we were to get anyone here from those States?

Mr. HOWDEN: No, I would not think so. We have the written statement of this gentleman Mr. Plaxton talks about. We have had it submitted to the committee. It is doubtful if he could add anything to that. He is in favour of death by lethal gas, so we can take it for granted, so far as he is concerned, and in nearly every case in which they use lethal gas in the American states, they all seem to prefer it to the former method of the electric chair or hanging. On the other hand, as opposed to that, we do have the fact that we have a better criminal record in this country where they hang people than they have down there where they do not.

Mr. BLAIR: The States are different.

Mr. HOWDEN: Yes.

Miss MACPHAIL: I think we want to be careful not to confuse other reasons in Canada.

Mr. HOWDEN: Quite so.

Miss MACPHAIL: I think the swift bringing of people to justice and the sentence of death for crime is the deterrent, rather than the method. That is my opinion.

Mr. TAYLOR: I quite agree with that observation.

The CHAIRMAN: We have had an hour and a half this morning. Would it be better for us to wait until we get the evidence up to date?

Mr. BLAIR: I think so.

The CHAIRMAN: Then we will call a meeting, and decide what other steps we shall take. Is that the wish of the committee?

Mr. HOWDEN: I think so.

Mr. O'NEILL: Just before we adjourn, and while Mr. Wills is here, there is just one observation I would like to make in connection with his report this morning. Apparently the hangman is the man who determines the length of the drop; and when you change the hangman, you have nothing to go by. It seems to me that we should have some record of the weight of the man, and the number of inches or feet or whatever it is that he drops. We should have some record of that, because if you dispense with the services of the present hangman and you hire a new man, he has absolutely nothing to go by at all, as I understand it.

Mr. HAMILTON: They should set up some board of instruction, you mean?

STEPHEN WILLS recalled.

*By the Chairman:*

Q. Mr. Wills, you are deputy sheriff. Under the law, the sheriff is supposed to carry out executions?—A. Yes.

Q. When you hire a hangman, have you no jurisdiction over him at all in connection with the length of the drop?—A. Oh, yes, the sheriff has. No, not as regards that. That is left to him. He is supposed to be passed by the department. He would be passed on by the provincial secretary's department.

[Mr. Stephen Wills.]

*By Mr. Howden:*

Q. He is supposed to know his business?—A. Yes.

Q. Whether it is a professional business or not?

Miss MACPHAIL: Where did he learn?

The CHAIRMAN: But the sheriff, after all, is the one who is responsible.

Mr. HOWDEN: Of course, he is; and the hangman is his deputy, purely and simply. He would not be his deputy if he did not know his business or was not supposed to know his business.

*By the Chairman:*

Q. Can you throw any light, Mr. Wills, on the length of the rope as compared with the weight of the condemned man?—A. No. I have never gone into that. The only man that I can think of, offhand, that could give you some valuable information on that would be Ellis himself.

*By Mr. Howden:*

Q. You told us that these men are passed by some board or something of that kind?—A. Perhaps I did not rightly convey that to you. The man has to be approved of by the provincial secretary's department at Queens Park.

Q. By the provincial secretary?—A. Of the government, yes.

Q. Do you know whether—just from hearsay or otherwise—these men have made a study of it or whether there is a course of instruction?—A. No. The late sheriff, the Hon. Dr. Pyne, employed this new man first, the man who is acting at the present time; and Dr. Pyne told me after he had interviewed this man that the man said that he had had considerable experience in India, in the army. I do remember that. That was the experience he went on, when he actually applied for the post.

*By Mr. O'Neill:*

Q. It seems to me when a man is executed we should have some record of the weight of that man and the length of the drop it took to produce death. If you did, over a number of years and in a number of different punishments, it should be possible, it appears to me, to eliminate any chance of bungling?—A. I believe Ellis has got such a record. I believe Ellis, the hangman, has got a record of practically every man that he has ever hanged.

Mr. O'NEILL: I think, Mr. Chairman, that the penitentiary should have that record.

*By the Chairman:*

Q. Well, they hang in jail, do they not?—A. In the different jails.

Mr. O'NEILL: The institution where the execution takes place should have that information.

Mr. HOWDEN: That is not for this witness, anyway. We are through with Mr. Wills, are we not?

The CHAIRMAN: Yes.

The witness retired.

The CHAIRMAN: What is the wish of the committee as to the next day of meeting?

Mr. HAMILTON: May I express my attitude on this at the moment? I hope I still have an open mind on it; but I would like to have some indication from medical men as to what happens in the lethal gas chamber. To me the cold figures do not mean an awful lot. We have had no direct evidence as to that.

The proposal is to change from an old and tried method. True, it has some very serious horrors when they do occur. But I think that we can get more evidence to indicate to what extent lethal gas is more humane than this. It is significant that those in authority—Mr. Gallagher, who it is true did not attend executions, but he has had a lot to do with criminal work; Mr. Belanger and the doctor who was here, the previous witness, at any rate, and the doctor to-day—seem to favour the hanging method. Mr. Wills of Toronto favours the other. Mr. Plaxton apparently favours lethal gas. Now, my thought is that these medical men who are very anxious, no doubt, to be as humane as possible, have had no opportunity—our Canadian official medical men—of attending these things. They had no opportunity to study lethal gas. My thought at the present moment is that perhaps if a few of them could study this for the department, we would get at real scientific information as to which is the most humane method.

Mr. TAYLOR: I thought we had something of that kind in our minutes. Were there not medical experts' opinions?

Mr. BLAIR: I think any of the doctors here have experience with men who have been unconscious from gas—carbon monoxide—and have been brought around, and have listened to their tale of how they went unconscious.

Mr. HAMILTON: That is not the evidence in Mr. Plaxton's. It is strangulation there apparently, and a different type of gas; and unconsciousness does not occur for a great many seconds after the gas strikes them. I say frankly now that I am not at all convinced that lethal gas is any more humane than hanging, when it is properly performed. I agree that it is if there is bungling in the hanging.

Mr. HOWDEN: We have those two factors before us, Mr. Chairman. There does not seem to be any question as to, shall I say, the more merciful method of destroying people in connection with capital punishment. There does not seem to be any difference at all. Everybody seems to agree. All our testimony so far would almost seem to bear that out. Even Dr. Plouffe does not offer any testimony to the contrary. But we have the other factor to consider, and that is the deterrent effect. There are plainly those two factors before us. I think this committee can consider that one is pretty well settled. We will take it for granted that lethal gas is a more merciful way of destroying people than hanging. But we still have to decide, as a committee—or still have to consider the deterrent effect of these two methods; and we have those two points before us. I do not believe it is necessary to bring anybody here to tell us that lethal gas is a more merciful way to destroy human life than hanging. I think we will take that for granted. Our task is to consider everything and submit a report in accordance with our considerations.

The CHAIRMAN: Well, shall we adjourn now?

Miss MACPHAIL: Yes, let us adjourn.

The CHAIRMAN: Then we shall adjourn, to meet at the call of the chair. At the next meeting we will consider our report to the house.

The committee adjourned at 12.40 p.m., to meet again at the call of the chair.













DOC

made Criminal Law (Death Pen  
alty) Special Committee, etc.

SESSION 1937

HOUSE OF COMMONS

CANADA  
1937

SPECIAL COMMITTEE



ON THE

# CRIMINAL CODE

(Death Penalty)

MINUTES OF PROCEEDINGS AND FINAL REPORT

No. 4

TUESDAY, MARCH 16, 1937

J. O. PATENAUME, I.S.O.  
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY  
OTTAWA  
1937



## MINUTES OF PROCEEDINGS

TUESDAY, March 16, 1937.

The Special Committee on the Criminal Code (Death Penalty) met this day at 11.00 o'clock a.m. Mr. McPhee, the Chairman, presided.

*The following members were present:* Messrs. Barber, Bertrand (*Laurier*), Blair, Clarke (*Rosedale*), Girouard, Hall, Hamilton, Howden, Macphail (Miss), McCulloch, McPhee, O'Neill, Plaxton, Raymond, Sinclair, Taylor (*Nanaimo*), and Veniot—17.

The committee proceeded to consider its report.

The chairman asked the members of the committee to express their views. The following members did so: Miss Macphail, Messrs. Howden, Taylor, Hamilton, Plaxton, Blair, Hall, Sinclair, Bertrand, Clarke, and Barber.

Mr. Sinclair moved that the question be now put, namely, "that Section 1062 of the Criminal Code, Chapter 36, of the revised statutes of Canada, 1927, be repealed, and the following substituted therefor:—

"1062. In all cases where an offender is sentenced to death, the sentence or judgment to be pronounced against him shall be that he shall be put to death by lethal gas; and such method shall be used in all executions following the coming into force of this section."

The question having been put it was negatived on division.

On motion of Mr. Taylor it was resolved that the chairman and Mr. Blair be appointed a subcommittee to prepare a draft report.

On motion of Mr. Bertrand the committee adjourned to meet again at 5.00 o'clock, p.m. this day.

TUESDAY, March 16, 1937,

5.00 o'clock, P.M.

The Special Committee on the Criminal Code (Death Penalty) met this day at 5.00 o'clock, p.m. Mr. McPhee, the Chairman, presided.

*The following members were present:* Messrs. Barber, Bertrand (*Laurier*), Blair, Clarke (*Rosedale*), Hall, Hamilton, Howden, Macphail (Miss), McPhee, O'Neill, Taylor (*Nanaimo*), and Veniot—12.

A draft report prepared by the subcommittee was read by the chairman, amended, and on motion of Mr. Blair, seconded by Mr. Clarke, was adopted unanimously.

The committee adjourned.

J. P. DOYLE,  
*Clerk of the Committee.*



## REPORT TO THE HOUSE

March 17, 1937,

### IN THE MATTER OF BILL NUMBER 6—AN ACT TO AMEND THE CRIMINAL CODE. (DEATH PENALTY.)

The Committee appointed by this House on Tuesday, February 2, 1937, to study the subject matter of Bill Number 6—intituled “An Act to amend the Criminal Code (Death Penalty)”—begs leave to report as follows.

#### SECOND REPORT

The Committee heard witnesses in the following order:—

1. *C. P. Plaxton, K.C.*—Advisory Counsel of the Department of Justice, who visited in the spring of 1935, the Colorado State Prison, Kansas City, State of Colorado; also the Nevada State Prison, Carson City, Nevada—these being prisons in which lethal gas is used instead of hanging as a death penalty.
2. *Oscar Belanger*—Deputy Sheriff, Montreal, Quebec, who testified regarding executions by hanging.
3. *H. F. Gallagher, K.C.*—Advisory Counsel of the Department of Justice and Chief of the Remission Service, at Ottawa, who testified principally regarding the deterrent effect of our present method of execution.
4. *Dr. Daniel Plouffe*—Superintendent, Criminal Insane Asylum, Bordeaux, Quebec, who has broad experience of criminals and of men condemned to death; he testified regarding the actual carrying out of hangings.
5. *Stephen Wills*—Acting Deputy Sheriff, Toronto, Ontario; he also testified regarding hangings; largely corroborated Dr. Plouffe, but favours the lethal chamber.

In the consideration of the subject matter of this Bill, two principal questions presented themselves to your Committee:—

1. Which of the two—lethal gas or hanging—is the more humane method of execution?
2. Which of the two is the greater deterrent to crime?

With regard to the first question.—Mr. Plaxton gave evidence of a questionnaire which was directed by the Department of Justice to those states of the American Union in which lethal gas is used as a means of execution. These states are: Nevada, Arizona, Colorado, Wyoming, North Carolina.

Statistics from these states, in answer to the questionnaire, were given showing that in executions by lethal gas, it took from twelve to fifteen minutes from the time the condemned person entered the death cell until he was pronounced dead.

The ordeal of the lethal chamber would therefore appear to be about the same length of time as hanging. Dr. Plouffe (who has witnessed eighteen hangings) states that in hanging the longest period of time he knew, after the drop, before the condemned man was dead, was ten minutes; and Mr. Wills, Deputy Sheriff of Toronto, stated in his experience the time varied from ten, to seventeen minutes.

The Committee feels that there is nothing in the evidence to show that the lethal chamber has an advantage over hanging in regard to length of time in connection with the death penalty.

With regard to the second question—"Which of the two methods is the greater deterrent to crime?"

The five states of the United States in which lethal gas is used, were asked this question:—

What is the relative value of this method of execution as a deterrent to crime?

The answers from the five states, are as follows:—

*Arizona*—I believe this question is entirely up to one's own personal opinion. It seems that everyone has a different view on it. We have had a number of persons who have witnessed executions here—both by hanging and with gas, and they are equally divided as to their opinion on this subject.

*Colorado*—No specific answer.

*Nevada*—Just as there is nothing to prove hanging as a deterrent, so there is nothing to prove "gas" a deterrent.

*Wyoming*—It is considered that this method will have no more effect as a deterrent on crime than any other method of capital punishment.

*North Carolina*—It is impossible for me to answer this intelligently. From the number of executions we have had by electricity and the number we have waiting execution by gas, it would appear that neither of these methods is of great value as a deterrent to crime.

It, therefore, appears from this information that even in those states in which the lethal chamber operates, it is not claimed that the new method provides a greater deterrent to crime than hanging.

As to the deterrent effect of hanging in Canada, we have heard some very definite statements. Three witnesses were questioned at length on this point. Mr. Belanger, Mr. Gallagher and Dr. Plouffe; they all testified that hanging is a strong deterrent. Mr. Gallagher in particular, spoke with the authority of an expert; he has been for a great number of years the official advisor of the Minister of Justice, with regard to matters of clemency and all commutations in capital cases. He has been in close contact with chaplains, doctors, alienists, and officials whose duties brought them into daily association with men condemned to suffer the death penalty.

As the opinion of this witness was somewhat qualified, we think it would be safer to refer to his evidence exactly as it was given—After quoting statistics showing the comparatively low rate of murder in Canada (p. 31) he explains that our mode of execution is only one of several factors contributing to this result. In reply to a question (p. 31) he states:—

A great deal of credit, I think, is here due to the strong administration of justice in every Canadian province. The excellent reputation for efficiency which our Canadian police have earned for themselves and to our judicial system, which is well known for its justice—swift and sure. I think that certainty of arrest and punishment have a deterrent effect—a very, very great one". . . . . Undoubtedly, I think we should be thankful for the general attitude of the people of this country, which is definitely opposed to crime. It might also be conceded that our press, as a rule, have adopted an attitude which has been very helpful in the repression of crime. For instance, we find no hero worship of gunmen

in this country. There are so many factors which contribute to bring about the low rate of capital crime that I would hesitate to ascribe to the death penalty, as we have it, too much credit for all which has been achieved. How can one weigh exactly the importance of each factor? I think it is almost impossible. However, I believe that in this country it is a generally accepted truth that the death penalty has a deterrent effect which is still essential to safe-guard the sanctity of human life.

He also says:—

There is a tradition attached to the present method. It is well known in the criminal world, and it is known as something absolutely to be avoided, if possible. There is not only the conception they have of what actual hanging may be, and probably is, but there is the ignominy attached to it. It is part of a very long and thorough education.

In reply to another question, he states:—

The present mode is something I think we should hesitate to discard without being thoroughly convinced that by changing it we would be taking a step forward in the right direction. (Ref. p. 32.)

Special attention may be drawn to the following:—

Mr. Gallagher pointed out that, as a rule, it was the gangster type, or the confirmed criminal, who eventually was convicted as a murderer and hanged; that more than half of those executed in this country were not Canadians, and in this respect, referring to recent reports, that crime in the United States was decreasing owing to the activities of the G-Men, Mr. Gallagher mentioned:—

If there is a decrease in crime in the United States, where the population is so many times greater than ours, if conditions are becoming decidedly unpleasant for the criminals over there, it may enter their minds to disregard frontiers and come to operate over here. At this particular time, would it be wise to lessen in any degree, the punishment for crime? I doubt it.

In this connection, however, there is the evidence of Mr. Wills, who says, in giving his impressions of the death penalty by hanging: "I have always had at the back of my mind the possibility of decapitation, every time that there is a hanging. There is always the fear of that. I have made enquiries myself in the States with regard to the chair and I think from that point of view, a change would be beneficial. After my experience in being present at the different hangings, I am inclined to think that a change would be beneficial."

Mr. Wills was asked if the Sheriff at Hamilton or Toronto approved of carbon monoxide for gas instead of cyanide; he said he had a letter from the Sheriff of Hamilton who leaves that impression. He said "I have only heard through my own Sheriff that the Sheriffs of Ontario, in convention, approved the change and, in my own opinion, it is more humane."

Mr. Plaxton gave evidence that the Attorney-General of each province had been circularized for his opinion as to a change. The reply of each is as follows:—

*Ontario*

Though I hate the gruesome business as heartily as you do, or more so, I do not know whether Canada is yet ready to abolish the death penalty. I fancy there would be little difficulty, however, in inducing our people to approve some genuinely better method of ending the lives of condemned persons. Failing this, however, there seems little reason why we should not alleviate some of the grosser objections to the present method.

*Quebec*

Premier Taschereau said:—

I have no opinion on this matter and leave it entirely to the best judgment of the Minister of Justice.

*Nova Scotia*

It would be difficult to obtain a definite view from our government upon the subject without full information, and a copy of the Bill. If it could be shown that the administration of lethal gas is a more humane way of carrying into execution capital punishment, and it is intended to establish central places for the administration of lethal gas, such, as for instance, one central place for the Maritime Provinces, then I would think that our government would view the proposal with favour, but at the moment this is merely my personal opinion.

*Prince Edward Island*

I may say that the Government of Prince Edward Island approves the proposed amendment of the Criminal Code by substituting for hanging the administration of lethal gas as a means of carrying into effect capital punishment.

*Manitoba*

The views of the Government of Manitoba are that if the sentence of death is to be imposed in capital cases that the method to be employed in carrying the sentence into effect should be the most humane possible.

As to whether or not the administration of lethal gas is more humane than hanging we can express no opinion.

It is noted that the Ottawa Minister of Justice has caused inquiries to be made in the United States which have adopted the use of lethal gas. If as a result of such inquiries, the Minister concludes that lethal gas is more humane than our present system, and Parliament passes the necessary amendment to the Criminal Code, we shall, of course, put the same into effect, but we shall have to rely on the Parliament of Canada determining the method.

*British Columbia*

Please be advised that this is a subject upon which I am not qualified to express an opinion. The method of executing criminals is one upon which I presume medical men are competent to advise and, I am sure, if a more humane and efficient method of execution could be devised than hanging, it would meet the general approval.

*Saskatchewan*

I regret to inform you that owing to lack of information and data on the subject, this government is not in a position to offer its views on the matter. However, I note that you are securing full information and data as to the experience of the several States of the American Union which have adopted this method of inflicting capital punishment and if, upon receipt of such information and data, you would care to communicate the same to me, I shall then endeavour to furnish you with the views of the government on the subject.

*New Brunswick*

Recently this government was requested to consider a resolution passed by the Ontario Sheriffs' Association looking to a change in capital punishment which I am informed has been brought to the attention of your department.

The Government of New Brunswick favours a change in the system so that all executions may be carried out at the penitentiaries.

They were also of the opinion that the form of punishment should be changed from hanging to the electric chair or lethal chamber.

As to the alternative methods, they expressed no definite opinion. To my mind, the lethal chamber has some advantages.

The Committee, having considered the evidence, recommends that no change be made in the method of execution.

Evidence was given before the Committee by Mr. Belanger, Dr. Plouffe and Mr. Wills showing that at least on two occasions there had been grave errors of judgment in the carrying out of executions. These errors created a revulsion of public feeling and no doubt are largely responsible for the present investigation. In the opinion of the Committee, the mistakes made were unfortunate and it is recommended that the attorney-general of each province take whatever steps may be necessary to prevent a recurrence of such regrettable incidents and that, if possible, central places of execution be established in each province.

A copy of the evidence taken before the Committee is tabled herewith.

All of which is respectfully submitted.

GEORGE W. MCPHEE,  
*Chairman.*



















